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BY

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Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

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ANNUAL REPORT.

ALTHOUGH the work of the Society was subjected to a certain amount of interruption during the year 1939, there is good reason to believe that it can continue under war conditions and may develop when peace is restored. There has inevitably been a temporary loss of membership owing to the War. Apart from this, the Society has suffered serious losses by the death of Dr. Edward Jenks and Mr. H. F. Manisty, both members of the Committee. Dr. Edward Jenks was a highly valued and regular contributor to the *Journal*. It is a simple statement of fact that it will be difficult indeed to fill his place. Mr. Manisty had for many years been a member of the Committee and was indefatigable in his attendance at the meetings, where his wise counsel was always valuable. Ill-health has prevented Mr. Campbell Lee from taking an active part recently in the work of the Society, and as a representative of the sympathetic interest displayed in its work by the United States, he has been specially missed.

The Financial Statement on the whole shows a satisfactory condition of affairs. It is much hoped that members will endeavour to maintain their subscriptions during 1940, especially as it may be expected that the Society will be able to make marked progress after the conclusion of this war as it did at the end of the last war. An announcement was made in the November issue of the *Journal* that its publication as usual was assured during the year 1940, but it may be found convenient for the two numbers containing the Review of Legislation to be issued as one.

An always uncertain source of revenue provided by the sale of back numbers has not yielded so much as in some previous years. The Committee prefer that they should not have to rely upon this as forming part of the basis of their income.

Some subscriptions were received in advance to the Index of the *Journal*, and although the response to the invitation to subscribe did not quite fulfil their expectations, the Committee have decided to proceed with its publication, and hope to issue it during the summer.

The Committee welcome the action which has been taken under the auspices of a Committee, of which Mr. S. M. Bruce was Chairman, to develop the work of the technical organizations of the League of Nations. In any study of economic and social problems, especially those which affect conditions of labour, the laws in operation have to be taken into account, and this leads to an increasing recognition of comparative legislation as a subject of practical interest and value. The only British Society which for nearly half a century has been devoted to its study may reasonably claim a larger measure of public support.

MACMILLAN, *Chairman.*

SOCIETY OF COMPARATIVE LEGISLATION.

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1939. *Cr.*

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In hand	3 13 4				
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INTRODUCTION.

[*Contributed by* F. M. Goadby, Esq., D.C.L.]

In the circumstances of the day this Introduction to our Review of Empire legislation in the year 1938 will be brief. I shall note only a few of the more striking enactments. Conditions also compel me to diverge somewhat from my usual practice of grouping the legislative Acts with reference to the subjects dealt with and to adopt a less exact method.

In the *British Isles* 1938 was a year of great legislative activity, as the summaries by Sir Cecil Carr and Sir Arthur Quekett clearly show.

From a standpoint dominantly economic the Coal Act (p. 12) and the Northern Ireland Factories Act may be placed first in importance.

Among consolidation statutes Sir Cecil Carr notes the Trade Marks Act (p. 1). That the primary purpose of this Act was consolidation is emphasized by McKinnon L.J. in his frank dissenting judgment in *Bismag* v. *Amblino Ltd.* (56 T.L.R. 721), a case in which the judicial view of the particular section under consideration is far from complimentary to the legislature. In reviewing the important provisions of the Supreme Court of Judicature (Miscellaneous Provisions) Act (p. 4) amending the Act of 1925 Sir Cecil suggests that the latter consolidation Act begins itself to need fresh consolidation. The amending Act of 1938, *inter alia*, sweeps away the ancient *quo warranto* which has figured so largely in English history, replacing it by a simple application for an injunction. Writs of *mandamus*, prohibition and *certiorari* are also replaced by Orders and the employment of a criminal information in K.B. restricted. The Act further enlarges the jurisdiction of Quarter Sessions in accordance with the advice of the Peel Commission. But in respect to judicial procedure perhaps the most interesting contribution of 1938 was that made by Lord Maugham's Evidence Act (p. 6), which in particular makes documentary evidence admissible in civil proceedings far more readily than has hitherto been the case. Indeed, the change might be described as revolutionary. A.R.P. already called for attention, and both in the United Kingdom (p. 3) and Northern Ireland (p. 21) legislation was enacted. There is none of us who has not, unhappily, practical experience of the working of these Acts. In the same general category, though also with associations less exclusively saddening, may be placed the Physical Training and Recreation Act of Northern Ireland (p. 21).

The Eire (Confirmation of Agreements) Act (p. 2) is noteworthy not only because it carries a step farther the separation of Southern Ireland but also for the exceptional, though, no doubt in the circumstances, comprehensible, provision that the territory should in future be styled " Eire "—that is, by a non-English name. Normally we use English names in speaking or writing in English of a non-English country, but here we have what amounts to the statutory incorporation in our language of a foreign word. In " Eire " the Ministerial and Parliamentary Offices Act (p. 33)

revises salaries and provides for payment of additional allowances to the leaders of the Second and Third Parties in " Dáil Eireann." The leader of the Second Party is to get £800 and the leader of the Third Party £500, but the latter only if he can muster six other righteous men to support him.

English lawyers and others, perhaps more pardonably, are inclined to claim a pre-eminence in sense and in justice for the English law to which claim the more judicious comparative lawyer may be disposed to except as to some details. The most devout advocate of our common law will admit that it has been much improved by legislation and that in recent years many valuable provisions not of home growth have been grafted upon it. Notable in 1938 was the Inheritance (Family Provision) Act (p. 6), which goes some way to establish a *legitim* in favour of spouse and child. The Act " follows the same general lines as legislation in other parts of the British Empire . . . and no doubt the principles enunciated in the decisions of the courts of the Dominions will be found useful by the courts of this country." [1] The restriction upon freedom of testation which this Act involves is countenanced in another sphere by striking, but, according to the general view, beneficial restrictions upon freedom of action resulting from Acts such as the Hire Purchase Act (p. 10), the Leasehold Property Repairs Act (p. 9), the Baking Industry (Hours of Work) Act (p. 11) and others.

Mr. Grigs, in his review of the Guernsey legislation, claims that the interesting Cadastre Law (p. 19) " illustrates a method which provides a bulwark against what is commonly called the ' New Despotism ' " and commends it to the consideration of the Lord Chief Justice and Mr. A. P. Herbert.

The legislation of the *Dominions*, though considerable in volume, does not present many points of outstanding interest. Australia (pp. 58–9) dealt with apple and pear industry and provided for bounties on citrus fruits, as also for the benefit of the motor and newspaper paper industries (pp. 54–5). The Australian schemes for stabilizing the wheat industry in which Commonwealth and States co-operate required further legislation: Commonwealth (pp. 62–3); New South Wales (p. 69); Queensland (pp. 79–80); Victoria (pp. 84–5); Western Australia (p. 87). Further enactments as to the dairy industry come from Queensland (p. 73), New South Wales (p. 66) and New Zealand (p. 105). In Saskatchewan the Soil Drifting Control Act (p. 51) attempted to combat the rapid soil deterioration by wind erosion, a matter of primary importance in the North American continent. In New South Wales also a Soil Conservation Service was established with powers to investigate and control (pp. 68–9). Provisions on the same subject were made in Southern Rhodesia (p. 126).

Among general statutes we may remark the amendment of the Bank of Canada Act (p. 34), the Canadian Copyright Amendment Act (pp. 35–6) which deals mainly with performing rights, the National Health and Pensions Insurance Act of Australia (pp. 56–7) and the consolidation of previous Insanity Acts with amendments thereof effected in Queensland (pp. 76–8). The legislation dealing with the registration of motor vehicles and their drivers, and all the problems arising out of motor traffic, has long been under consideration in South Africa, greater uni-

[1] *Modern Law Review*, iii, p. 54.

formity between the provinces being a dominant aim. In the Cape Province new legislation upon this topic (pp. 116–18) has resulted, and there were also amending enactments in Natal (p. 121) and Transvaal (p. 123). But perhaps the most interesting legislative effort of a general kind made in 1938 is the ambitious Social Security Act of New Zealand which covers monetary benefits of very varied kinds, classifying them under eleven heads and making extended and elaborate provision for their application. The superannuation benefit will give every permanent resident in New Zealand over 65 years of age an annual benefit without means test. The family benefit takes the place of the family allowances under the Act of 1926. A new sickness benefit is given complementary to the existing invalids' benefit. For further details the reader is referred to Mr. Christie's valuable summary (pp. 107–11).

A few items of special legal interest may also be remarked. Prince Edward Island adopted the Uniform Contributory Negligence Act modifying the common law in favour of the Admiralty rule (p. 45).[1] Lord Justice Goddard and Lord Justice Scott are perhaps the most recent high authorities who have reprobated the common law rule and advocated a similar change in this country.[2] The old rule is the unjust result of metaphysical reasoning. English lawyers might well be quicker to acknowledge that the common law often fails to do justice. In Ontario it was provided that " no damages shall be allowed for the death or for the loss of expectation of life," and the most unhappy right of the personal representative of the deceased to recover damages for loss of expectation of life by the deceased is thus abolished (p. 44). In Prince Edward Island also it is still necessary to provide for the barring of a widow's dower in fee simple lands, and provisions to enable this to be done on payment of indemnity were enacted (pp. 45–6). Newfoundland consolidated the law as to enforcement of Empire and foreign judgments (p. 53), and Queensland (p. 72) made further provisions to meet malpractices by legal practitioners and in another enactment (p. 76) made provisions aiming at the severance of the practice of barrister and solicitor. Public servants also are in some cases to be admitted as solicitors without service under articles, lengthened periods of service in various public legal offices being deemed equivalent. Certain rights of audience are, however, in such cases reserved. The anomalies which had developed in the law relating to the admission of advocates in Southern Rhodesia were removed (p. 125). Thus our learned correspondent tells us that visiting King's Counsel are now totally exempted from local examination. A further enactment deals with the admission of attorneys, notaries and solicitors. In the Union of South Africa an Act, pathetically optimistic, made provision for tourist development (p. 114). Finally, a somewhat odd enactment in Saskatchewan—no doubt desirable given a knowledge of local conditions —empowers municipalities to prohibit the advertisement, carrying out, or conducting of what are termed " closing-out sales " within the municipal area, save under licence. " Closing-out sales " include sales of goods represented by any of the terms " bankrupt," " executors," " receivers," " trustees," " closing stock," " fire," " lease expired," etc. The full summary (p. 51) is interesting. Cf. our Review for British Columbia for 1937.

Our summaries of New Guinea legislation being in arrear, we have in

[1] Cf. Alberta, *Journ. Comp. Leg.*, xxi, pt. iii, p. 37; British Columbia, *ibid.*, p. 40.
[2] In *Wilkinson* v. *Chetham Strode*, 56 T.L.R., at p. 773.

this number to include several for past years. In 1934 the Legitimation Ordinance adopted in that territory the principle of legitimation by subsequent marriage—a principle of which the application was so long resisted in this country by the perverse insularity voiced by the thirteenth-century barons. In the same year a new Evidence Ordnance following English legislation was enacted—but some of the exceptions are novel. Thus confessions in criminal proceedings are to be admissible even though made under pressure or threat " unless the court is of opinion that the inducement was in fact likely to cause an untrue admission of guilt to be made "! Confessions made to clergy are definitely to be privileged and, in civil matters, communications to medical practitioners. Presumably the circumstances in which such confessions become privileged are closely defined, comprising only confessional or medical admissions. Detailed provisions as to Wills were enacted in 1938, and in the same year a new ordinance as to petroleum repealed an earlier one of 1936 and made major alterations in the law regulating prospecting and mining for petroleum in the Territory. Subject to the Ordinance all petroleum and helium is the property of the Administration. On this subject legislation of a comprehensive character was made in Papua (pp. 92–3) which presents novel features, as also in Fiji (pp. 111–12).

The Central Legislature of *British India* sought to prevent evasion of the Sarda Act (Child Marriage Restraint) of 1929 by two enactments, the second of which empowered a court to issue a prohibitory injunction (p. 129). The Act, Mr. Ratcliffe tells us, evoked considerable opposition from orthodox sections of opinion. A more stringent Act as to prevention of cruelty to animals was made possible by the change of public opinion which has occurred since the original Act of 1890 (p. 129). An Employers' Liability Act (p. 128) precludes an employer from raising the defences of common employment or assumption of risk. Among the numerous enactments made by the provincial legislatures may be noted as of special legal or social interest (*a*) Acts of Punjab providing, *inter alia*, against the use of land destructive of or permanently detracting from the value of the land for purposes of agriculture and making restrictions on the permanent alienation of land to agriculturist moneylenders (p. 136); (*b*) an Act of Bihar which seeks to enforce " what is practically total prohibition of alcoholic liquor " within the State; (*c*) an Act of Madras (p. 132) which defers to " the growing demand for the removal of disabilities imposed by custom on certain classes of Hindus " by enabling certain Hindu temples to be opened to excluded castes of Hindus. A welcome Act from Bombay provides for restoration of lands forfeited during the Civil Disobedience Movement for non-payment of land revenue, etc. (p. 135).

In the *Colonies and Dependencies* outside the Dominions are to be noted several interesting legislative provisions. Numerous cases occur of adoption of English law. By an Ordinance of British North Borneo (p. 153) the common law of England and doctrines of equity in force at the date of the commencement of the Ordinance are adopted, subject to State enactment, in place of the general principles of law and equity in force in India. A further section follows the English Law Reform (Married Women and Tortfeasors) Act, and still another, rather surprisingly, is deemed requisite to prohibit Thellusson Accumulations. S. 177 of the Law of Property Act, 1925, is introduced, with other English provisions as to Wills, into the Straits Settlements (p. 149), and the

Infanticide Act, 1938, is reproduced in Ordinances of the Somaliland Protectorate (p. 160) and St. Vincent (p. 175). The protection to bankers afforded by s. 19 of the English Stamp Act, 1853, as to proof of the genuineness of an indorsement, was extended by local enactment to Kenya (p. 158) and to Tanganyika (p. 162).

Legislative efforts towards better economic organization are exemplified by the establishment of a Coffee Board and cess in Uganda (p. 164); sugar legislation, mainly in connexion with the International Sugar Agreement of 1937, in Tanganyika (p. 161), Uganda (p. 162) and Leeward Islands (p. 172); a Petroleum Ordinance in Trinidad (p. 175), as also in Palestine (p. 180), where the new provisions are stated to be modelled on those of Trinidad; a Tobacco Marketing Ordinance in Nyasaland (p. 160); and a Pineapple Ordinance in the Straits Settlements. Note also that the Tanganyika tea industry is attracting special attention resulting in the establishment of a Tea Board and a cess imposed to provide money for the benefit of the industry (p. 162). In Zanzibar the Clove Decree of 1937 [1] was replaced by somewhat less stringent legislation in conformity with an understanding reached between the Government and the representatives of the Indian community. This industry, of such dominant importance in the Island, has recently been in a troubled state, and it is to be hoped that the new settlement will prove effective. The other serious problem before the Zanzibar Government, that arising from the heavy indebtedness of the cultivators, should have advanced towards solution by the enactment of the Land Protection (Debts Settlement) Ordinance (p. 165), which has long been under consideration. But much work has yet to be done before the land question in Zanzibar and Pemba can be described as settled.

On the Gold Coast a special Ordinance was requisite to mitigate the risks of trade depression arising from the grave period of conflict between farmers and merchant buyers of cocoa (p. 155).

Among general enactments of particular importance may be remarked the trade mark legislation of the Straits Settlements described by Dr. de Mello as "an epoch- making piece of legislation in the history of the Colony" (pp. 148–9). It is inspired principally by the English Acts of 1905–37. In Palestine also the Trade Marks Law was consolidated and amended (p. 180).

A consolidating Order in Council in the Federated Malay States applicable only to Moslems penalizes non-attendance at divine service on Fridays as well as failure to send male children to school for instruction in the Koran, enticement of unmarried girls, adultery, teaching unorthodox doctrine, break of fast, etc. The provisions have a distinctly mediæval flavour (pp. 150–1). It is rather saddening to find that an Advertisement Ordinance (p. 155) was required in Gambia to prevent the disfigurement of the countryside. The evil has not apparently gone very deep as yet and measures taken in time will prevent unpleasant development. Would that our home legislators had been earlier alive and sensitive to the charm of our own villages and landscapes now so disgracefully impaired by commercial salesmanship! The licensing of bicycles and tricycles is in force and was further regulated in British Honduras (p. 169). The law in the Falkland Islands regulating the employment of midwives "male and female" recalls the time when women were forbidden to act in

[1] *Journ. Comp. Leg.*, Third Series, xxi, pt. iii, p. 157.

confinements in some of the principal hospitals in this country. To students of Smith's Leading Cases it may also recall the picturesque case of *Higham* v. *Ridgeway* and the immortal entry in the receipt books of the man midwife.

In more than one territory we find further provisions made as to seditious and undesirable publications, *e.g.* Straits Settlements (p. 148), Sarawak (p. 154), Falkland Islands (p. 170), Leeward Islands (p. 172), St. Lucia (p. 174) ; a Newspaper Surety Act in the Bahamas (p. 171) requires publishers to execute bonds conditioned against publication of blasphemous, seditious or libellous matter ; in Zanzibar an Ordinance was enacted to secure by means of newspaper registration that the identity of publishers and printers should be known (p. 167). In British Guiana an Ordinance (p. 168) enabled effect to be given to the provisions of the International Convention of 1932 for the protection of workers employed in loading and unloading ships. The all too familiar lighting restrictions cast their unhappy shadows before in Kenya (p. 158) and in Tanganyika (p. 162). In Gibraltar (p. 177) and Cyprus (p. 178) the regulations on the same subject are now, no doubt, of constant application. In Gibraltar also an Ordinance modelled on the Air-Raid Precautions Act, 1937, has, we trust, proved its usefulness. Finally, to turn to a less melancholy subject, the Seventh Day Adventist church in St. Vincent secured the incorporation of trustees of the church property (p. 175).

Mr. Crane's summary of the Federal Legislation of the United States will be read with much interest. Although a good deal of the work of the Session was of a purely local character, he has succeeded in extracting a number of interesting features, and we are very glad once again to include the United States in the Review.

BRITISH EMPIRE.

I. BRITISH ISLES.

1. UNITED KINGDOM.

[*Contributed by* Sir Cecil T. Carr, LL.D., *Editor of Statutes Revised.*]

Seventy-three public general Acts were passed in the session 1 & 2 Geo. 6 (October 26, 1937, to November 4, 1938). They include another solid instalment of legal reforms initiated by the Lord Chancellor's Department. The tendency to assimilate Scottish to English law continues. Inconvenient judicial decisions have, as usual, to be circumvented by legislation. Old ideas of *laissez-faire* are further discomfited by State regulation and subvention of various industries and by interference with freedom of contract and testamentary disposition.

Form and Improvement of the Statute Book.—Statute law revision—the formal repeal of dead law—has two examples. Sir Arnold Wilson's modest Chimney Sweepers Acts (Repeal) Act eliminates four Acts dating from days when chimneys could be swept by children. One of these still required a chimney sweeper to pay the police half a crown for an annual licence. This derogatory tax now disappears. It is a pity that the repeal (c. 58) did not extend to Scotland.

The second clearance of old rubbish occurs in the Administration of Justice (Miscellaneous Provisions) Act. In the exploration involved in framing the new law the draftsman came across several enactments which he could declare " obsolete or unnecessary, whether by lapse of time or by reason of its having become lawful and expedient for rules of court to regulate or provide for the matters to be dealt with, or otherwise." Justifying by this declaration the inclusion of these enactments in its general schedule of repeals, the Act proceeds to sweep them away (c. 63, s. 19 (3), sch. 3). This process of statute law revision *by subject* is a valuable ally to statute law revision *by period*. Some archaic provisions, going back to Tudor times, are also expurgated by the consolidating Food and Drugs Act.

Consolidation, it need scarcely be explained, is the process of replacing by a single orderly statute a series of previous enactments on the same topic. The session exhibits a simple example in the Trade Marks Act (c. 22). Prior amendment of the law (almost always necessary and thus an inherent obstacle to plans for consolidating) had been carried out separately by a Trade Marks (Amendment) Act in the previous session. The alternative method is to combine amendment and consolidation in a single Bill. This method is precarious. Controversy and the multiplication of amendments are the enemies of consolidation ; if x amendments are officially proposed, y unofficial amendments cannot be excluded ; x and y may smother the Bill to death. The combined method, never-

theless, was safely used in the Local Government Act in 1933 and the Public Health Act in 1936. The official amendments incorporated in these two great codes were most carefully examined and prepared by experts and could be put forward as the maximum agreement possible if consolidation were to be achieved. The combined method again succeeds in a third code in 1938, the Food and Drugs Act, to which further reference will presently be made.

The uncontroversial Parsonages Measure is a minor instance of combined consolidation and amendment. The same description may perhaps be applied to Lord Dawson's Infanticide Act. An Act of 1922 allowed a mother to be convicted of the lesser offence of infanticide where she would previously have been found guilty of the murder of her newly born child. In *R.* v. *O'Donoghue* it was held that a one-month-old baby was not "newly born." The new Act (c. 36) gives the mother the benefit of the milder law if the child is not over twelve months old. Instead of pecking at a few words in the 1922 Act, the latter is entirely repealed and a self-contained statute is substituted.

Imperial and Continental Affairs.—The Eire (Confirmation of Agreements) Act abrogates the treaty rights of the United Kingdom to the defended ports of Berehaven, Queenstown and Lough Swilly, settles outstanding financial claims in no niggling spirit, and provides for future trade relations. Incidentally the Act (c. 25) declares that the territory known as the Irish Free State shall in future be styled Eire.

Dominica is removed from the colony of the Leeward Islands (c. 10) and becomes a separate colony so that it can be governed along with the Windward Islands. This could not be done merely by a geographical extension of the letters patent constituting the office of governor of the Windward Islands, because the existing Leeward Islands group (consisting of four other presidencies besides Dominica) was federated by an imperial statute in 1871. In the new Dominica Act, as in the Act confirming the agreements with Eire, there is the almost inevitable power to adapt enactments consequentially by Order in Council.

In 1929 an Imperial Telegraphs Act transferred certain undertakings to the company now known as Cable and Wireless Ltd., the Postmaster-General leasing to it his four beam wireless stations. These terms proved onerous; the communications have strategic importance, and Empire telegraph rates have recently been reduced. A new Act (c. 57) embodies an agreement, in which the Dominions and India concurred, whereby the lease rental was cancelled in return for a share in the equity of the company. The Postmaster-General waives a small claim over a right to work a wireless service with Kenya. Imperial significance attaches also to the Air Navigation (Financial Provisions) Act which increases subsidies as advised by Lord Cadman's committee (c. 33).

In international affairs the Anglo-Turkish (Armaments Credit) Agreement Act sanctions advances up to six million pounds (c. 60). With this money Turkey will purchase in the United Kingdom material necessary for her defence.

Public Administration.—The brief War Department Property Act (c. 49) relieves the Secretary of State for War of the manual labour of signing documents personally in connexion with the acquiring, managing or disposing of property. Like relief had been given to the Secretary of State for Air in 1936 (26 Geo. 5 & 1 Edw. 8, c. 44, s. 26 (4)).

Two drafting points from the Food and Drugs Act may be worth

noting. The first concerns the old practice of directing one Minister to consult with another before making regulations or taking other action. This express direction is now deemed otiose because the Government as a whole is constitutionally responsible for everything done by each Minister. It is to be assumed that the invariable practice of inter-departmental consultation will be followed.[1] The second point is the substitution of the term " Milk and Dairies Regulations " for the old term " Milk and Dairies Orders." Not much notice has been taken of the report of the Committee on Ministers' Powers in 1932; but this small change is made in deference to the Committee's suggestion that the words " rules," " regulations " and " orders " should be used with a more exact sense of their appropriateness.

His Majesty's Armed Forces.—Section 90 of the Naval Discipline Act, dealing with discipline in hired ships in time of war, was no longer as adequate as when enacted in 1866. War is not always called war, and precautions must be taken in advance. The section also dealt too exclusively with officers and men as members of particular ships' companies. A new section is now substituted (c. 64) with an added power (since status is sometimes doubtful when the Admiralty takes over everything from a gig to a liner) to settle doubts by Order in Council.

The annual continuance of the Army Act and Air Force Act is accompanied, as usual, by a few amendments (c. 20). There is a fresh arrangement for long-service enlistment. Army and air force pay is not to be attached under orders of civil courts in India or Burma. Existing laws already prevent its attachment elsewhere. The Air Council obtains power to direct the temporary attachment of R.A.F. personnel—in time of peace with consent only—to the air forces of India and Burma.

Civil Defence.—The Air-Raid Precautions Act (c. 6) has to apportion functions and expenditure between the central and local authorities. Local authorities submit " general " and " fire-precaution " schemes. The Secretary of State [2] can by regulations prescribe the requirements of the scheme, the arrangements for storing and lending equipment, appliances and materials, and so on. He can approve a scheme with or without modification. The local authorities must co-operate; there are special provisions for London. The State pays for gas-masks, fire-engines and decontaminating appliances. Section 6 deals with the evacuation of civilians.[3] The local bodies are to furnish the Home Office with requisite information for planning " any necessary transference of the civil population in the event of hostile attack from the air." Northern Ireland is declared to have power to legislate for the protection of persons and property from this form of attack.

Not to penalize property-owners who protect themselves, two Acts provide that, where rooms or premises are structurally altered or otherwise converted for defence against hostile attack from the air, there shall not on that account be any increased assessment to local rates in England or Scotland (cc. 65 and 66). Like relief from income-tax assessment is given by the Finance Act.

[1] *See* House of Commons Debates, 1937, January 20, pp. 201–2 (debate on Livestock Industry Bill). The point was mentioned before the Joint Committee on the Food and Drugs Bill (H.C. 125, p. 26).

[2] His functions have now found their way to the Minister of National Security (who is also the Home Secretary): *see* 2 & 3 Geo. 6, c. 31, s. 1 (1) and S.R. & O. 1939, No. 862 (Lord Privy Seal); and 2 & 3 Geo. 6, c. 77, and S.R. & O. 1939, No. 1142.

[3] This provision was replaced by the Civil Defence Act, 1939.

Risks of incendiary bombing lead to fresh legislation for fire brigades (c. 72), based on a departmental committee's report. Local " fire authorities " are to provide efficient local fire services, engines, training and inspection. The Secretary of State may by order prescribe standards of efficiency ; co-ordination schemes may require uniformity of appliances and equipment. Fire authorities will maintain fire hydrants and arrange for a proper water supply. The former fire functions of the parish council are transferred (with suitable compensation) to the fire authority. A Fire Service Commission will review and report on the fire services furnished under the Act and can supervise co-ordination. If the local bodies are in default, " fire service boards " may be set up to prepare " area schemes " or to replace the defaulters. Fire brigades and police obtain new powers to enter premises and regulate traffic when fires occur. There are to be a Central Advisory Council for Fire Services, a training centre and official inspection. The Government may lend appliances provided under the Air-Raid Precautions Act, and there are new arrangements for firemen's pensions.

Another defensive precaution was the purchase by the Government of wheat, sugar and whale oil—a secret disclosed in the Budget speech. The transaction is validated by the Essential Commodities Reserves Act (c. 51), which also sanctions the future acquisition and storage of stocks of food, forage, fertilizers and petroleum. The Board of Trade may vary the stocks but, except to prevent deterioration, must not finally dispose of them without fresh legislation. Thus the problem of ultimate liquidation is postponed. Without any compulsion traders had given helpful reports of their existing stocks and storage accommodation ; the Act adds the power to compel.

Administration of Justice.—The Supreme Court of Judicature (Consolidation) Act, 1925, already beginning to need fresh consolidation, is twice amended (cc. 2 and 67) to increase the strength of the Bench. One amending Act adds a new proviso (*aa*) to section 11 (1) to provide four puisne judges for the Probate, Divorce and Admiralty Division where matrimonial causes make heavy lists. The other, adding *per incuriam* a new proviso (*aa*) in the same place, increases the number of Lords Justices so that the Court of Appeal can sit with three courts. Ordinary judges of the Court of Appeal must sit in the High Court if requested by the Lord Chancellor.

Changes in the Lord Chancellorship do not disturb the unity of policy in reforming the mysteries of English legal procedure. The recommendations of highly expert committees are gradually translated into law. Thus the already mentioned Administration of Justice (Miscellaneous Provisions) Act (c. 63) embodies suggestions made in the Peel Commission on the Despatch of Business at Common Law (Cmd. 5065) and in the third and final report of the Lord Chancellor's Business of the Courts Committee (Cmd. 5066). Characteristically, perhaps, the reforms are introduced to save judicial time rather than for their intrinsic merits. The last-mentioned report dealt *inter alia* with the procedure on the Crown side of the King's Bench Division. It found Crown Office Rules, made in 1866, for proceedings in part abolished by statute, in part entirely obsolete and in part very rare and of doubtful value. There was outlawry, for instance, abolished in civil proceedings in 1879, though still surviving in Scotland. The Forfeitures Act, 1870, solemnly preserved the forfeitures on outlawry which go to the Crown ; but no one is outlawed in England

now; there are better ways of bringing a man to justice. The new Act abolishes outlawry in England, and (with none of the hesitation shown over operating section 1 (2) of the Statute Law Revision Act, 1888) eliminates various references to it in the statute-book, although sentiment insisted on preserving two now meaningless words in Magna Carta. Another anachronism was the *quo warranto* information which challenges persons or bodies to justify the assumption of some office or privilege to which they are not entitled. The leave of the court had to be obtained before the information could be filed. The applicant had to ask for a rule *nisi*; on the argument of the rule (as also on an application for one of the prerogative writs of *mandamus*, prohibition or *certiorari*) all the merits were discussed and the decision was usually treated as—though strictly it was not—the end of the case. *Quo warranto* proceedings are now abolished and replaced by the simple application for an injunction. Writs of *mandamus*, prohibition and *certiorari* will no longer be issued; orders (final, subject to any right of appeal) are substituted, and the old pleadings in prohibition disappear. Rules of court will govern the new procedure; thus the old Crown Office Rules can be revoked, to reappear in simpler and shorter form as part of the Rules of the Supreme Court. Trial of indictments and criminal informations in the King's Bench Division, another vestigial survival, is not entirely swept away. The King's Bench trial of Lynch in 1903 and of Casement in 1916, and the *ex-officio* information in *Rex* v. *Mylius* in 1910 (libel on the Sovereign) may be recalled. In future no indictment or inquisition is to be tried in the King's Bench Division, or removed thereto for trial, except that the High Court may direct a trial at bar in that Division and indictments may still arrive there from the grand jury of Middlesex. Criminal informations, unless filed *ex officio* by the Attorney-General, are abolished. So also is the exhibiting of articles of the peace in the High Court, a most ancient but obsolete process open to A who goes in fear of B; complaints to magistrates under the Summary Jurisdiction Acts, with the binding over of the alleged frightener to keep the peace, are now sufficient.

The Peel Commission's advice is taken in other parts of the Act. To save the time of the red judge at assizes, more offences—the list was outlined by the Bodkin committee—are made triable at quarter sessions, provided that there is a legally qualified chairman approved by the Lord Chancellor. The Act allows quarter sessions to make representations as to the chairman they want, and the Lord Chancellor is to bear in mind the possible qualification of bilingualism for the chairmanship of county sessions in Wales and even in Monmouthshire. Judges, law officers, recorders of large boroughs and other high legal officials are eligible; the basic qualification is at least ten years' seniority as a barrister or solicitor. There is power to remunerate the legal chairman as already provided by local Act in counties like Middlesex and Hertfordshire.

The circuit system cannot avoid denuding the London courts of judges. As a further economy the circuit judge can now himself cancel the assize at a place where there is no business or no substantial amount of business. Justices of the peace are checked in an apparent tendency to commit accused persons to assizes instead of to quarter sessions. The High Court gets further relief by an increase of county court jurisdiction. The county court judges, on whom a constantly increasing burden falls, are themselves relieved by an increase in the jurisdiction of their registrars.

Section 17 makes clear that equity proceedings can be transferred from the Chancery Division to the county court without any application by a party : this bit of the law was apparently mislaid in the dust when the County Courts Acts were swept and garnished in 1934.

Lastly may be noticed section 13, which is due to a Brussels Convention of 1926 (supplemented in 1935) for regulating the immunity of State-owned ships. When the date of operation of an international convention is certified by Order in Council as respects Britain, the high contracting parties will be deemed to have submitted to the jurisdiction of the Supreme Court. The Court will prescribe the mode of proof of material circumstances. An Order in Council may certify who are the high contracting parties and to what extent they have used their agreed power to suspend or modify the operation of the convention.

Reform of the law of evidence is a Lord Chancellor's personal contribution to English jurisprudence. Lord Maugham's Act (c. 28) makes documentary evidence more readily admissible as to facts in issue in civil proceedings. The maker of the documentary statement must have had personal knowledge of the matters concerned. The court is directed to deal with the weight to be attached to such statements in all the circumstances. Was it contemporaneous ? Had the maker any incentive to conceal or misrepresent facts ? Two new provisions apply to criminal as well as civil proceedings. A document which depends on attestation for its validity may (except in the case of wills) be proved as it could have been if no attesting witness had been alive ; where a document is proved (or purports to be) 20 years old, the same presumption will arise as would previously have arisen if it had been 30 years old.

A Criminal Procedure (Scotland) Act (c. 48) arranges for the payment of fines by instalments and for " transfer of fine orders " (as in England) where the convicting court knows that the offender resides in another court's jurisdiction. It is made unnecessary for accused persons to appear in court at certain merely formal stages. Section 10 allows statutory offences punishable by penal servitude to be tried in the sheriff court. This recalls the difficulty revealed in the case of *R.* v. *Gallagher*, where the appellant successfully challenged the sheriff court's power to try him on a charge under the Coinage Offences Act, 1936.

The proceedings in juvenile courts in England are simplified by a new Children and Young Persons Act (c. 40). These courts can make orders of three kinds—probation orders, supervision orders and orders committing the boy or girl to an " approved school," the modern name for the older and rougher industrial or reformatory school. These powers are made more flexible. The supervision order may contain such conditions, " including provisions determining the place at which the child or young person is to reside," as the court thinks necessary. This will enable the court to require the juvenile to give up undesirable companions, to be indoors by a prescribed hour at night, or to reside for a time in a home or hostel. The Act deals also with truant school children. Juvenile courts, empowered to dispose of school attendance cases, obtain power to have the child present when the parent or guardian is summoned. Lastly the constitution of these courts in London is modified in order to settle how far the lay justices should in this matter supersede the professional magistrates of the metropolitan police-courts.

Law of the Family.—Under the Inheritance (Family Provision) Act the courts in England can, notwithstanding the terms of a will, provide

for the maintenance of the testator's dependants (c. 45). This was a private member's Bill. The Government's attitude was that of strict non-intervention. Precedents could be cited from laws in Scotland, Australia and elsewhere, though in a House of Lords debate in May, 1928, Lords Haldane, Buckmaster and Merrivale had doubted their value. The Act operates where a person dies domiciled in England, leaving a wife or husband, a spinster daughter, an infant son, or a daughter or son incapable of self-maintenance by reason of mental or physical disability. The court, on application on behalf of any of these dependants, can, if it considers that " the will does not make reasonable provision for the maintenance of that dependant," order such provision as it thinks fit. No application can be made if " the testator bequeathed not less than two-thirds of the income of the net estate to a surviving spouse, and the only other dependant or dependants, if any, is or are a child or children of the surviving spouse." Orders will provide for ending the maintenance payments in the several events of the spouse's re-marriage, the spinster daughter's marriage, the infant son's coming of age or the termination of the disability. The proportion of annual income concerned is limited. The court is not to make an order involving improvident realization. It is to have regard to past, present or future capital or income of a dependant and also to the testator's reasons (so far as ascertainable) for the dispositions which he made or did not make. Here the court may accept such evidence as it considers sufficient, " including any statement in writing signed by the testator and dated " ; but, though the statement thus becomes admissible, it is not conclusive. Applications must be made within six months from the date when representation for general purposes is first taken out. Orders may be varied on proper grounds. Every English lawyer who has to draft a will for a married person will have to consider this Act carefully.

The Divorce (Scotland) Act (c. 50) brings Scottish law into line with the English Act of 1937, with a few improvements. Where, for instance, the ground of divorce is incurable insanity and it must be proved that the defender has been for the past five years continuously " under care and treatment," detention in an English mental hospital may be reckoned for the purpose of a Scottish divorce. The converse position (reckoning detention in Scotland towards an English divorce) was omitted in the Herbert Act.

Health, Welfare and the Social Services.—Concern over the falling birth-rate is one of the reasons for the Population (Statistics) Act (c. 12). Without waiting for the 1941 census, the Act asks for figures which may show what kinds of parents produce the largest families or no family at all. Official curiosity had its opponents, as usual, and the Act is limited to an experimental period of ten years. On the registration of births and still-births questions may be asked about the mother's age, the date of the marriage, the number of other children and how many are still alive : on the registration of death, the date of the deceased's marriage (if married) and the age of the surviving spouse, and, in case of a woman, the duration of marriage and whether she had children. There are penalties for false statement and safeguards for secrecy. Another Act (c. 55) makes the registration of still-births compulsory in Scotland as it was already in England.

A short Mental Deficiency Act (c. 43) is occasioned by the Court of Appeal's decision in *R.* v. *Board of Control, Ex parte* Winterflood, [1938]

2 K. B. 366. The Act of 1913 contemplates that an order for detention of a mental defective in an institution shall expire at the end of a year from its date, but may be continued in the patient's interests by the Board of Control after examining medical reports and certificates. With thousands of cases pending all the year round, the decision could seldom be made punctually on the exact date when an order expired. One patient took *habeas corpus* proceedings on the ground that the Board had not made its continuing order till nearly a fortnight later. The liberty of the subject was vindicated and he was set free. The new Act allows the Board a margin of a month.

In the continuity of State-aided medical service from the cradle to the grave there was a gap. Juveniles leaving school at 14 were not covered till they entered the national health insurance system at 16. By a new law (c. 3) the young worker going into industry now gets the full benefit of that system, except cash benefits for which there seemed no demand and for which a disproportionately high contribution out of small wages would have been required. The ultimate raising of the school age will affect the position. In filling the gap it is arranged that the health insurance doctor can (in confidence, of course) get medical information from the school doctor. By another amendment of health insurance law (c. 14) a hardship is removed. The Act of 1936 stopped an abuse whereby elderly business-owners transferred their business to a relative and thus qualified for benefit after a brief period of insurance. The 1936 check was found to be too severe in its strict application.

Two Acts deal with the care and treatment of the blind. One (c. 11) lowers to 40 the age at which a blind person gets his old-age pension. Local authorities which have a general duty to promote the welfare of the blind are to take into account the needs of a blind man's household; they may pay funeral expenses, and they are to take cases out of the atmosphere of poor relief. The other (c. 32) empowers local authorities in Scotland to arrange for assistance in preventing blindness and for treatment of eye injuries or diseases.

A Poor Law (Amendment) Act enables persons over 65 in workhouses or institutions to have a little pocket-money (c. 23). This "personal allowance" is not to exceed 2*s*. a week.

Scotland follows England in requiring the registration of all nursing homes and not merely of maternity homes as previously (c. 73). With a limited exception for Christian Science homes (as in the English Act) there will be general regulation and inspection. The definition of nursing home includes maternity homes.

Food and Drugs.—The Food and Drugs Act, already mentioned, consolidates groups of earlier enactments which have the two objects of promoting public health and protecting purchasers from fraud. Enactments of the latter class had been consolidated as recently as 1928. The 1928 Act applied to England, including London, and also to Scotland. The new code applies to England, including London, except that Part V, relating to markets, slaughter-houses and cold-air stores, does not apply to London. This exclusion of Part V was due to the special nature of the market rights of the City and to the formidable task of reconciling differences between metropolitan and provincial law about slaughter-houses and knackers' yards. Part IV, restricting the importation of adulterated and impoverished foods, applies to the whole of the United Kingdom. Space does not permit a full analysis of the code and the

various changes which it introduces. They can be studied in the Third Interim Report of the Local Government and Public Health Consolidation Committee (Cmd. 5628). The Committee, to which representatives of London were added, did not pretend to frame ideal law but tried to reproduce existing law with such amendment as would command general assent. The use of capital letters is intriguing. Where the 1928 Act spoke of a Food and Drugs Authority, the 1938 Act prints the words as Food and Drugs authority. Capitals are used for the Food Regulations, Milk and Dairies Regulations and Bread and Flour Regulations which the Minister of Health is authorized to make, wherever they are mentioned.

Housing.—By the Housing (Financial Provisions) Act (c. 16) expiring subsidies for new building are continued and altered. Unified subsidies are now payable to local authorities per house (as in the de-crowding enactments) rather than *per capita* (as in the enactments for slum clearance). In respect of rural housing the district councils are empowered to provide for the needs of the English countryside. Houses are to be reserved, if required, for agricultural tenants. The councils can also contribute to the cost of agricultural housing accommodation provided by other persons, subject to express conditions as to reservation, weekly rent, size and construction. A Housing (Rural Workers) Act (c. 35) continues till 1942 the scheme for encouraging the reconditioning and modernizing of agricultural cottages. In 1942 all housing subsidies will come under review. There has been a difficulty in fixing "normal agricultural rent" in this connexion. Reference to the "average rent paid by agricultural workers in the district" sometimes failed because the district contained none. In such a case account is to be taken of the average rent paid by "persons of substantially the same economic condition in the district." Owners must keep the dwelling fit for habitation by persons of the working class. Increased assistance can be given to abate overcrowding.

In Scotland it was felt that the 1935 Act had not done enough for the rural areas. The Scottish Housing Advisory Committee, set up by that Act, made suggestions embodied in the Housing (Agricultural Population) (Scotland) Act, 1938 (c. 38). Local authorities obtain special Exchequer contributions for houses meeting the needs of the "agricultural population"—a class so defined as to include the village blacksmith and others besides land workers. Part II enables local authorities to give grants to landowners to replace bad farm cottages and thus to get rid of the old bothies and chaumers.

Rent restriction enactments, originally passed in the last war to protect munition workers and soldiers' families from hardship in a period of housing shortage, have been continued as part of the country's general housing policy. The particular emergency passed; enough houses were still not available. The landlord's right to raise rent or to recover possession remains restricted as respects houses within prescribed limits of rental. A fresh continuance in 1938 (to be altered again at the outbreak of the present war) is accompanied by certain relaxations of control (c. 26). Where the rent of a house within the Rent Restriction Acts is payable weekly, the landlord must provide a rent-book.

Contractual relationships are further modified by the Leasehold Property (Repairs) Act which restrains the landlord's power to enforce obligations in England (c. 34). In long leases there are covenants whereby the

lessor can insist on the property being handed over in proper repair at the end of the lease, and on current repairs being done during the term of the lease, on pain of forfeiture. Ingenious persons bought up property and made a blackmailing use of these covenants. In 1925 the Law of Property Act prevented the enforcement of a right of re-entry or forfeiture under any clause in a lease unless a notice were given in a prescribed form. The new Act enables the lessee to serve a counter-notice to the effect that he claims the benefit of the Act ; in that case the lessor can take no further steps without leave of the court. While the new law protects the genuine landlord and provides for proper sanitary repairs, it directs the court not to give leave except where the lessor proves certain specific facts or except in special circumstances which in the court's opinion make the grant of leave " just and equitable."

Hire-Purchase.—Although it interferes yet further with freedom of contract, the passing of Miss Ellen Wilkinson's Hire-Purchase Bill is a social reform of real value to many homes. The less honest firms exploited various tricks—snatching back the goods for non-fulfilment of some condition, suing the hirer in some remote court, supplying articles of bad quality, and linking on to a duly completed hire-purchase agreement a new agreement for other goods so that, on failure of any of the new instalments, the firm would claim the return not only of the new goods but also of the old goods already fully paid for. The new Act (c. 53) requires the owners to give the hirer a note of the cash price and the hire-purchase price, with other details ; they must also supply, on tender of a shilling, a copy of any agreement and a statement of the amount paid and the dates and amounts of unpaid instalments. The owner's right to recover the goods is restricted. When a third of the money has been paid, he cannot enforce any right to recover possession except by action. All actions must be taken in the county court for the district where the hirer lives. Contracting out of the Act is forbidden. Every hire-purchase agreement will contain certain implied warranties and conditions—quiet possession, merchantable quality, and so on. The hirer has his obligations, too. If the agreement requires him to keep the goods in his own possession and control, he must comply with any request to tell the owner where they are. The Act applies to goods within prescribed limits—£50 for motor vehicles, £500 for livestock and £100 in all other cases. The figure of £50 takes account of the practice of selling cars with an allowance for the old car ; that of £500 is due to the fact that a farmer generally buys several animals at a time. The Act also controls " credit-sale agreements " (where the property in the goods passes at once to the buyer) if the purchase price is payable in five or more instalments.

Employment.—For workers employed on motor vehicles carrying goods a Road Haulage Wages Act (c. 44) sets up wage-fixing machinery. There is to be a Central Wages Board for Great Britain, a Scottish Area Wages Board and area boards for ten English areas corresponding to existing traffic areas. Both employers and employees will be represented on these boards. The Road and Rail Traffic Act, 1933, specified the different types of licences required by different types of goods vehicles. The new Act deals differently with haulage under the different types of licence. When the Central Board puts up its proposals for " road haulage wages orders " to the Minister of Labour, it can make proposals for fixing " holiday remuneration."

This idea is carried further in the Holidays with Pay Act (c. 70), which

in part carries out recommendations of Lord Amulree's committee (Cmd. 5724). Besides providing machinery by which the pay on holidays will be fixed, the Act enables the Minister of Labour to assist voluntary schemes for holidays with pay in any industry or branch of industry.

Another committee under the same chairman had made suggestions for restricting night baking. The resultant Baking Industry (Hours of Work) Act (c. 41) enacts regulation but not prohibition. It begins with a general rule against baking between 11 p.m. and 5 a.m.; but then come three important "special exceptions." First, night work may go on if two nights a week are kept free; secondly, bakers may keep their men on night work from Friday night into Saturday morning, and they may begin at 4 instead of 5 in the morning on weekdays; lastly, there may be night work for 26 weeks in the year, but not for more than 3 weeks on end without leave from the Secretary of State. There is a saving for biscuit factories, and some old enactments against baking on the Lord's Day disappear. The commencement clause is cryptic. It hints at an official preference for the alternative remedy of regulating baking hours by the machinery of the Trade Boards Acts. The new Act is not to come into force until the Home Secretary certifies that a trade board has been established for the manufacture of bread and flour confectionery, and even then not until both Houses of Parliament have presented an address praying that the Act may be brought into force by Order in Council. The certificate was forthcoming; the address was not.

The law of unemployment insurance is further extended (c. 8). Education authorities, in addition to the instruction under the principal Act, are enabled to provide meals for unemployed juveniles attending industrial centres. Persons employed in certain scheduled work (gamekeepers, ghillies, grooms, etc.) are brought into the scheme of insuring workers in agricultural employment. There is a change in the insurance of men discharged from His Majesty's forces.

An amendment of workmen's compensation law (c. 27) enigmatically applies the 1925 code to persons "engaged in plying for hire with any vehicle or vessel the use of which is obtained from the owner thereof for a certain consideration under any contract of bailment or letting to hire, other than a hire-purchase agreement." This apparently covers taxicab drivers who take out cabs and are paid a portion of their earnings, and also certain Thames bargemen.

A Young Persons (Employment) Act (c. 69) deals with juveniles under 18 employed as van boys, errand boys, page boys at clubs or hotels, lift boys and so on. They are not to work more than 48 hours a week, nor for a continuous period of 5 hours without a half-hour interval for a meal or rest. If their work runs from 11.30 a.m. to 2.30 p.m., they must have an interval of at least ¾ of an hour for dinner. On at least one weekday per week there must be a half-holiday from 1 p.m.; if employed on a Sunday, they must have a whole holiday on a weekday. In every 24 hours from noon to noon there must be an interval of at least 11 connected hours; the interval must include the hours from 10 p.m. to 6 a.m. Employment is deemed continuous unless broken by a period of at least half an hour. Employers must keep records of hours worked and must exhibit notices of the hours of work. The Factories Act already provided for errand boys. The Shops Acts are now brought into line.

Superannuation.—Tenure and conditions of official and other service are being gradually improved by arrangements for pensions and retire-

ment. The Superannuation (Various Services) Act (c. 13) extends to the employees of public bodies like the Development, the Electricity and the Forestry Commissioners, the code which governs civil servants. The employee can surrender a part of his pension for his wife's benefit. At his death small sums can be distributed without requiring the claimants to produce probate. The Merchant Shipping (Superannuation Contributions) Act (c. 4) removes a legal obstacle. No other industry would have needed legislation in order to introduce a pension scheme ; but, in the bad old days of crimping and shanghai-ing, Parliament had protected the seaman from assigning his wages in advance. The new law validates deductions for pension contributions. Another Act (c. 31) deals with the members of the Scottish Land Court other than the chairman. The Court of Session held in 1937 that it was *ultra vires* to appoint them on the express condition that they retired at 65 (as seemed indicated by the Small Landholders (Scotland) Act, 1911). It ruled that appointment must be for life or till removal under the statutory conditions for inability or misconduct. Parliament has the last word. In future they will retire at 65 with superannuation allowances.

Finance.—The annual Finance Act (c. 46) has to increase various taxes. What were called the McKenna duties (on imported motor cars, films, clocks and watches, etc.) are transferred to the general scheme of import duty collection. Income-tax goes up by 6*d*. The long labours devoted to consolidating income-tax law are not yet rewarded. Indeed, the task of rewriting is made harder by fresh provisions to check evasion by way of transfer of income abroad or the ingenious use of revocable or accumulating trusts and settlements. Other sections in the Finance Act deal with the national defence contribution imposed in 1937 (in particular relieving the investment income of insurance companies), prolong the currency of savings certificates and repeal stamp duties in respect of certain honours and dignities.

The periodical requirement of appointing more land-tax commissioners is met this year (c. 18). The usual Public Works Loans Act authorizes issues by the National Debt Commissioners to the Public Works Loan Commissioners and writes off certain bad debts (c. 7). A new section enables loans to be made to local authorities for purchasing land for works —*e.g.* for open spaces and recreation grounds.

Mining.—Turning now to various industries which demanded a helping hand, first there is coal mining. The owner of the surface of land has normally a right to minerals (other than the royal metals of gold and silver) found beneath it. The new Coal Act (c. 52) expropriates those rights in respect of coal. In the previous session the Coal (Registration of Ownership) Act had prepared the way. Now a statutory "Coal Commission" acquires all coal, coal mines and annexed rights in fee simple. The compensation is fixed by determining what was popularly called a "global" sum equal to the total value of all these acquired interests. An arbitration tribunal having recommended fifteen as the appropriate number of years' purchase, the aggregate amount of compensation for all "principal coal hereditaments" is set at £66,450,000. The Coal Commission's functions are laid down in Part I of the Act. The Board of Trade may generally direct the exercise of the Commission's functions ; the Commission is otherwise independent. It is not itself to engage in mining, though it has the exclusive right to search and bore for coal. It is to control and manage the property transferred at the vesting

date (July 1, 1942), to grant leases to colliery undertakings, and to promote the interests, efficiency and better organization of the coal-mining industry. A Central Valuation Board divides Great Britain into " valuation regions " and allots a part of the global sum to each. Claimants aggrieved at the valuation of their own property may appeal to referees.

Part II of the Act resumes the task of reducing the number of coal-mine undertakings. The Coal Mines Act of 1930 had contained machinery for compulsory powers, but the Coal Mines Reorganization Commission was not to confirm an amalgamation or absorption scheme unless satisfied that the national interest required it. The issue of national interest was not apt for quasi-judicial decision. The 1930 plan did not do what was wanted. The responsibility for reducing the number of undertakings is now transferred to Parliament. The Coal Commission is to promote suitable amalgamations and to take steps to apply compulsion. It can report its recommendations to the Board of Trade. The Board can then make a provisional order declaring that the proposals are in the national interest. This order needs confirmation by Parliament.

A brief Part III deals with the awkward problems of quotas and prices. Part I of the 1931 Act (with amendments) is extended for five years. Consumers receive such protection as committees of investigation can give ; and there is a Central Appeal Tribunal. The chairmen of these committees and of the Tribunal are to be members of the legal profession. The Committees will take evidence in public (unless for any special reason a committee otherwise decides) and will deliver its decision on every complaint in public.

Cotton.—The Cotton Industry Act continues for a further five years a provision of 1923, amended in 1928 and 1933 and now about to expire, whereby cotton spinners were made to pay a levy of 1*d.* per 500 lb. of raw cotton purchased by them. The money finances the activities of the Empire Cotton Growing Association (c. 15).

Agriculture.—Schemes evolved under the Agricultural Marketing Act of 1931 required further attention. The Bacon Industry Act (c. 71) establishes a new Bacon Development Board with wider powers of control. The number of independent members is increased from three to five. The Board has authority over the Pigs Marketing Board and the Bacon Marketing Board except in so far as the statute expressly directs these two bodies to act independently. Redundant bacon factories are to be dealt with by rationalization schemes requiring approval by resolution of each House of Parliament. The Development Board's power to license bacon factories is restated ; small establishments (not producing more than 40 cwt. of bacon in eight consecutive weeks) are exempt. Other technical clauses deal with the " long contract " system, subsidies, the standard price for the standard pig, curers' selling quotas and so on.

Comprehensive legislation about milk is not yet ready. Meanwhile a short Milk (Extension and Amendment) Act continues enactments otherwise about to expire (c. 61). A further grant for cheap milk schemes helps arrangements for milk for school children and maternity and child welfare.

Fisheries.—The condition of sea fishing is not prosperous ; the stock of fish is not being replenished ; bigger and more powerful ships compete. The Sea-Fishing Industry Act of 1933 created a Sea Fish Commission to regulate the quantity and quality of supplies. The Commission's recommendations are the basis of Part I of a new Sea Fish Industry Act (c. 30).

There is to be a White Fish Commission. All persons interested in the industry—the catchers (described as " home producers of white fish "), wholesalers, retailers and fish friers—are to try the medicine of the marketing schemes prescribed for agriculture in 1931. This means registration, regulation, inspection and liability to monetary penalties and to contributions towards expenses. Consumers' committees and committees of investigation will attempt to look after the interests of the public. There are also to be co-operative schemes for inshore fishermen.

The rest of the Act must be briefly stated. Part II is due to an international convention of March, 1937, regulating the meshes of fish-nets and the size-limits of fish. Part III concerns the whaling industry in which the advent of great factory-ships lying outside territorial waters is a source of difficulty. Grey whales are to be protected. Part IV offers a remedy for the unsatisfactory methods of the trawlers' pay. Accounts are to be rendered and checked and deductions controlled. The Merchant Shipping Act (supervision of share fishermen's interests) is tightened. Miscellaneous amendments in Part V relate to local sea fisheries committees, penalties for owners as well as skippers, and simplified procedure for shell-fish orders.

The Herring Industry Act (c. 42) amends the Act of 1935. It reconstitutes the Herring Industry Board, creates a Herring Industry Advisory Council and authorizes grants for new motor-boats and loans to societies for acquiring nets, gear and fuel. An amendment of section 3 of the 1935 Act allows rules to be made for prohibiting the sale or export of herring of specified descriptions or qualities unless the prescribed mark or designation is used. The use of any other mark or designation may be forbidden.

Cinematograph Film.—Certain enactments of 1927 which restricted the blind booking and advance booking of films and prohibited the exhibition of unregistered films were due to expire in 1938. The new Act which replaces them (c. 17) preserves the general statutory structure and continues the system of renters' and exhibitors' quotas. These quotas start at a modest level and rise progressively; the renter's quota is always higher than the exhibitor's because it is desired to encourage the existence of sufficient British films from which the exhibitor can make up his programme. There is a new formula for the definition of a British film. If it is to be registered as a renter's quota film, it will not be a " British film " unless (*a*) the maker was carrying on business in the United Kingdom all the time, (*b*) the studio is in the United Kingdom, and (*c*) at least half the requisite amount of labour costs find their way into the pockets of British subjects ordinarily resident in, or persons domiciled in, the United Kingdom. This exclusion of films made elsewhere in the Empire is explained by the need of applying an effective test of cost. Among other changes in the law a separate quota is introduced for long and short films. The short film quota was suggested by the Moyne Committee. The short film gives useful training to producers and actors; it is an opportunity for experiment with small-capital ventures and for the interesting development of the so-called " cultural " film. There is to be a special qualification for the long film. The old test was length alone. Now there is a cost test; the producer and his financial supporters must be prepared to back their fancy. Section 26 puts the minimum labour costs at £7,500 with a mathematical calculation based on the figure of £1 per foot. The Board of Trade may exempt particular films of special entertainment value. In making this and other decisions the Board is to

consult the new Cinematograph Films Council. This body is to consist of twenty-one members ; the chairman and ten others are to be appointed " as being independent persons " ; British film makers, renters and British film makers' employees will have two representatives apiece and the exhibitors will have four. The Council replaces the advisory committee created by the 1927 Act.

Industrial Property.—Apart from the rewriting of the law of trade-marks, already mentioned, there is fresh legislation on patents (c. 29) to give effect to the decisions of the 1934 London conference of the International Union for Protection of Industrial Property. Some points of international agreement adopt provisions of existing British law: in other respects British law is brought into line with the common front. The actual inventor, for instance, is to have a right to be mentioned as such in the patent by way of historical record. Something is done to mitigate the abuse of monopoly rights. Hitherto, if a patent were taken out but not worked, it could be revoked after three years for such abuse. It is now thought that the grant of compulsory licences will be a sufficient check. In future there will be no revocation unless an order for a compulsory licence has been obtained after the three-year interval, and then not until at least two more years have elapsed. There is new machinery for imperial and international arrangements for mutual protection of patent rights. In the system of extending section 91 of the principal Act to countries overseas by Orders in Council emphasis is now laid on the power to declare or deem them to be " Convention countries." Section 10 of the new Act amends the law of merchandise marks. Hitherto a false trade description has not been punishable unless the description appeared in physical relation to the goods. Henceforth the law will catch false descriptions in signs, advertisements, invoices, wine lists and business communications.

Miscellaneous.—In 1871, when rabies still caused anxiety, a Dogs Act enabled magistrates to order the destruction of animals which were dangerous and not kept under proper control. Was there a right of appeal ? Some quarter sessions thought so, others not. An amending Act (c. 21) removes the doubt ; the death sentence on the friend of man (and the favourite of legislators) will be respited pending appeal.

A British Museum Act (c. 62) is occasioned by the second Lord Rothschild's bequest of his unique collection of zoological specimens housed at Tring. He stipulated that the bequest must be accepted as an annexe of the British Museum, and that the Tring Museum must be used in a modified form for zoological research. The British Museum trustees have been able to accept many bequests without an *ad hoc* statute. Here an Act was necessary because the old laws by which the British Museum was established required its collections to be accommodated " in one general repository."

Britain takes like action with France and Egypt in passing the Quail Protection Act (c. 5). It prevents the bird known as *Coturnix coturnix* from being imported alive into the United Kingdom during the breeding season.

Among other legislation to be mentioned briefly, a Conveyancing (Scotland) Act amends the Act of 1924, introducing further simplification with the full approval of the profession (c. 24). A Welsh Church Act (c. 39) is due to the creation of the University College at Swansea in 1920. Property of the Welsh Church passed on disestablishment to the three

existing University Colleges in Wales. It will now be distributed between the four. The Architects (Registration) Act entrenches professional monopoly. In 1931 Parliament protected the title of "registered architect"; it now goes further (c. 54) and forbids anyone to call himself an "architect" unless he has certain prescribed qualifications. A merciful exemption is allowed to the naval architect, the golf architect and the landscape architect, and also to certain members of the Institution of Civil Engineers and similar bodies engaged in the service of local authorities. Persons practising architecture are given two years in which to make up their minds whether they will become registered or not. There is a tribunal to which anyone aggrieved by the refusal of registration can appeal.

The Rating and Valuation (Postponement of Valuation) Act throws over to 1941 the next quinquennial valuing otherwise due in 1939 (c. 19). The Central Valuation Committee had not yet made sufficient progress towards uniformity of assessment.

In the field of local government there are two fresh instances of the general application of a law already experimentally introduced by a Local Act. The Street Playgrounds Act (c. 37), enabling local authorities at suitable times to close suitable streets as safe places for children, had worked well at Manchester, Birmingham and Salford. The Local Government (Hours of Poll) Act allows the time for elections to English local authorities to be extended from 8 p.m. to 9 p.m. at the request of the candidates. Barking had secured this facility under a Local Act in 1933.

Local and Private Acts.—There were 101 Local Acts in the session, and one Private Act which varied the trusts and settlements under a will. The Local Acts, as usual, deal with the supply of facilities for transport, water, gas and electricity, and with all those activities of local government which, being in advance of, or at variance with, the general law of the land, would be *ultra vires* unless thus sanctioned. Saltburn, for instance, may arrange for automobile races on the foreshore. The Middlesex County Council may publish its old charters and other records of public interest. The London County Council may make and enforce by-laws for the regulation, control and protection of its new Blackwall Tunnel and of persons who use it, and for managing, directing and controlling all traffic therein, fixing speed limits and prohibiting the passage of particular traffic either generally or during prescribed hours. At Stockton-on-Tees certain land of which the owners cannot be discovered is vested in the borough without payment or compensation.

There are laudable signs of care for local amenities, as in the Green Belt (London and Home Counties) Act. Here there is power for local authorities to agree with a landowner that they shall have first offer to purchase property of him or his successor in title if it comes into the market; and local authorities and owners may make covenants restricting the future use of land. Nottingham can acquire land in order to place "offensive trades" in areas suitably zoned under a town-planning scheme. Guildford can license cattle-drovers and make by-laws to prevent the overstocking of cows at markets. For the Empire Exhibition in Bellahouston Park the restrictions of the ordinary licensing laws in force in Glasgow are relaxed so that visitors may be refreshed. These samples suffice to illustrate the variety and usefulness of the Local Acts. They can sanction the extension of boundaries at Plymouth, the construction

and management of golf-links by the Clacton Urban District Council or the amalgamation of two famous and ancient hospitals at Sheffield. The Shropshire, Worcestershire and Staffordshire Electric Power Act is the solitary instance of consolidation. In another case (the Warwickshire gas enactments) the House of Lords took action to ensure that Private Bills having the exclusive purpose of consolidation should go to the Joint Select Committee on Consolidation Bills, and that this committee should consider no petition against a Bill if it sought to alter the existing law. In other words, amendment must be by separate Bill.

Church Assembly Measures.—Of the six Measures which received the royal assent after being passed by the National Assembly of the Church of England, two were local. The debate on one of these raised (though not to a serious extent) the question whether, if a Measure was of the same scope as a Local or Private Bill, it should not be subject to the Private Bill Standing Orders, so that, in a proper case, members and the public would have full notice by advertisement in the press. The Measure, which was in no way controversial, amended the Liverpool City Churches Act, 1897, so that grants could be made to churches outside as well as inside the strict city boundary. The other Measure of a local character transferred the dignity and status of cathedral church from the Church of the Holy Trinity at Guildford, which was found to be too small, to the new cathedral built on Stag Hill.

The Marriages (Licensing of Chapels) Measure is of wider scope. In 1836 the Marriage Act authorized bishops to license chapels for marriages for the greater convenience of people living in populous districts distant from a parish church. Doubts arose over the marriage of persons living in a district not wholly within the parish in which the chapel was situate. The Measure rectifies the bishops' authority retrospectively as well as prospectively. But for the difficulty of obtaining complete lists of the chapels concerned, recourse might have been had to the more usual method of validating past marriages by a Provisional Order Confirmation Act.

The Faculty Jurisdiction Measure follows the Dibdin report and seeks to preserve the beauty and safety of English churches. Archdeacons and non-residents are allowed to appear before the Chancellor in the Consistory Court. Advisory committees receive statutory recognition. A faculty is permissive, not mandatory; to strengthen his powers, the Chancellor can authorize the archdeacon to act if the incumbent and churchwardens are in default in carrying out the work sanctioned. He may also order persons to pay costs if they introduce or remove articles or execute work in a church without the required faculty.

The consolidating and amending Parsonages Measure relates to the sale and alteration of the parsonage and its appurtenances. The Ecclesiastical Commissioners (Powers) Measure makes the Commissioners the authority to regulate fees for marriage, burial and other church offices, and for the erection of monuments in churchyards. Tables of fees are to be exhibited. There is fresh provision for the salaries of Church Estates Commissioners, previously based on an 1850 standard, and for quarterly payments to incumbents.

Delegated Legislation.—The number of Statutory Rules and Orders—*i.e.* the Orders in Council and departmental legislation officially registered under s. 3 of the Rules Publication Act, 1893—rose to 1660 for the year 1938. The rules and orders of public general character occupy two

stout volumes. Bulk, however, is not a sign of bureaucratic tyranny. Nearly 300 pages are occupied by a new County Court Districts Order, at last consolidating the principal order of 1899 and its long tail of amendments. Regulations begin to be made under the new Factories' Act. As provided by the Essential Commodities Reserves Act, the Board of Trade produces its declaration of the specific commodities which in its opinion would be essential for the vital needs of the community in the event of war. There are more than 500 pages of health insurance regulations, and new codes for precautions against a dozen diseases of animals—anthrax, cattle plague, foot-and-mouth disease, glanders, rabies, swine fever and so on. There is no need to enumerate the different subjects covered by the alphabetically arranged volumes of Statutory Rules and Orders from "Administration of Estates" to "Workmen's Compensation." Those who attack the delegation of legislative power to departments must tell us how all this detailed law-making, if the country requires it, can otherwise come into being.

2. JERSEY.

Militia.—An Act of February 1, 1938, extends the service establishment of the Militia for the Island.

Aerial Navigation.—An Act of February 22 embodies the tariff to be charged at the air port. An Order in Council of February 26 brings up to date and harmonizes with the corresponding Order for Guernsey the rules relating to aerial navigation. An Act of June 23 provides for the extension of the air port.

Animals.—A règlement of March 29 deals with the import and export of animals, including dogs and cats, in order to prevent the spread of disease.

Intoxicating Liquors.—An amendment approved on April 5, 1938, is made in the law relating to the hours of sale of intoxicating liquors.

Wild Birds.—A règlement of April 5, 1938, adds starlings to the law of 1928 dealing with wild birds.

Tax on Wines and Spirits.—The règlement of April 5 allows a rebate on the tax on spirit in various forms such as perfumery.

Marriage.—A marriage is annulled by an Act of January 27, 1938, if either of the parties is under the age of 16.

Sodomy.—An old law of 1799 is repealed by the Acte des Etats of April 5 providing the punishment for sodomy.

Massage.—The Act of April 5 regulates massage and similar establishments on the lines of the powers given to local authorities in England to license them.

Jurés-Justiciers.—Scales of fees payable to Jurés-Justiciers are incorporated in an Act of April 5.

Fishing.—The protection and development of the fishing industry are the objects of an Act of July 28.

Agricultural Produce.—A law of July 28 is directed to secure that horticultural produce exported out of the island under the guarantees of the State has actually been grown in the Island.

Local Taxation.—An Act of April 22 is a comprehensive measure containing the provisions for local taxation upon the expiry of a law passed in 1935.

3. GUERNSEY.

[*Contributed by* G. F. GRIGS, ESQ.]

The legislation enacted in 1938—there were fourteen Orders in Council—was mainly of no more than local importance, but in one instance, at any rate, the *Loi relative au Cadastre Général de l'Île* (1938), Ordre en Conseil III, 1938, there are features which may be of wider interest. The purpose of this Law was to provide a reconstructed general framework within which can be set up and operated the administrative machinery of the Island Valuation law for the taxation of real property. It is one of the first indigenous laws to adopt the modern English analytical arrangement or "lay-out" with its preliminary "Arrangement of Sections" or table of contents (they are usually denominated "Articles" in the Laws of the Channel Islands, an illustration of intimate French associations); its organization of the subject-matter in intituled parts and sections; its useful apparatus of an "Interpretation" section; and its "Short Title"—this last a triumph of the English-speaking legislatures but a thing difficult to attain in, *e.g.*, the French language.

The chief claim, however, of the Cadastre Law, 1938, to attention is the way in which it illustrates the method adopted by Guernsey to provide a bulwark against what is commonly called the "New Despotism." Guernsey has accomplished this by a long-established constitutional device which might well appeal to the Lord Chief Justice and to Mr. A. P. Herbert and certain other publicists. Thus the Cadastre Law, 1938, requires the preparation by the appropriate authority of what is, in effect, a valuation scheme. It also, like many of the Island Laws, includes a far-reaching provision as follows:

> *Article* 18.—*Power to Royal Court to Pass Ordinances*
>
> The Royal Court is authorized to pass such Ordinances as it may deem necessary for giving effect to this Law.

Sometimes the Island Law setting up a new administrative body requires that body to prepare regulations for the conduct of its affairs, and empowers it to prepare such regulations at any time and from time to time thereafter, and proceeds:

> Regulations prepared as aforesaid shall have no effect until they have been submitted to and approved by the Royal Court sitting as a Court of Chief Pleas, and upon such regulations being so submitted, the Royal Court may modify or amend the same before giving its approval thereto. The Royal Court may by Ordinance modify and repeal any regulations previously approved.
>
> (This citation is from the Mental Treatment Law (Guernsey), 1939.)

Moreover, when the States of Deliberation, usually as the outcome of a report or reports by a standing committee or some special committee of the States, decides that some new Law is required, its resolutions to that effect conclude with the following or a similar formula:

> (Les États . . . ont été d'avis . . .) de prier la Cour Royale de préparer un Projet de Loi donnant effet à la délibération des États à ce sujet.

In due course, the Projet or Bill thus prepared in legislative form comes before the States for consideration, amendment (if desired) and approval, and is then submitted for ratification to the King in Council.

In other words, whether for its major statutes, the Orders in Council, or for its subordinate legislation deriving from such a statute or otherwise, the constitutional drafting authority in Guernsey is the Royal Court.

Ordnance.—The *Loi ayant rapport à la Confection de Nouvelles Cartes de cette Île* (O.C. IV, 1938) is directed to arranging for a new Ordnance Survey of Guernsey and the preparation of up-to-date maps.

Ancient Monuments.—The *Loi relative à la Protection des Monuments de l'Île* (O.C. V, 1938) is a concise measure, having the same object as the parent English legislation in this matter, and it adopts approximately parallel methods, so far as they are conveniently applicable in the Island. It is made an offence (unless the written authority of the States' Ancient Monuments Committee has previously been obtained) to demolish or efface or effect any alteration or addition to, or change in the appearance of, any part of any building, structure, object (natural or artificial) or remains which the Royal Court has, after an initial resolution by the States, directed to be a monument subject to the provisions of the Law. The passing of this Law was mainly due to the energy of the learned archæologist who is president of the Committee mentioned, and it has already taken many valuable relics of the past out of danger from ill-advised alteration, demolition or other undesirable treatment.

Elections.—The principal provisions of the *Loi supplémentaire à la Loi relative à la Réforme des États de Délibération*, 1938 (O.C. VII, 1938) enable the Law Officers of the Crown to notify the Royal Court when an elected representative in the States (one of " Les Députés du Peuple," in the ringing phrase of Guernsey's constitution) ceases to be legally qualified to be a Deputy, or is absent from the sessions of the House for twelve consecutive months, or is disabled by illness during such period. The Royal Court can then proceed to make a declaration of the existence of a disqualification ending such Deputy's tenure of office, and the election of a Deputy in his place may then be held.

Another Law very similarly entitled (O.C. XII, 1938) amends, clarifies and consolidates the law relating to the Registration of Electors.

Contributory Pensions.—The Contributory Pensions (Supplementary Provisions) Law, 1938 (O.C. XIII, 1938), extends the powers (*a*) of investigation into the causes of industrial and certain other accidents, and (*b*) of guarding against such accidents. The expression " premises " is defined as including " any vessel," and " machinery," " apparatus " and so forth are interpreted so as to apply to gear used in loading or unloading a vessel. The Administrator under the Island Insurance Authority is empowered to give to the " responsible person " " a direction as to the taking of such action as, in the opinion of the Administrator, will effectually remove " danger or potential danger which appears to the Administrator to exist in premises, machinery, etc. Appeal lies to the Royal Court from such direction, and the decision of that Court is final.

4. NORTHERN IRELAND.

[*Contributed by* Sir Arthur S. Quekett, K.C., LL.D.]

During the year 1938 twenty-seven public general Acts were passed by the Parliament of Northern Ireland. Twenty-six of these belong to

the first session of the Fifth Parliament (March 1 to November 24) and one to its second session (which began on December 6). Four local Bills, and one Bill confirming a Provisional Order, became law in the first session.

"A.R.P."—The object of the Air-Raid Precautions Act (c. 26) is to secure that it shall be the duty of the council of each county borough or other borough, urban district and rural district, to make provision by means of a scheme as to the arrangements to be made in their area for minimizing the injury and damage to persons and property likely to result from air-raids, and for the extinction of fires likely to result from such raids. The Act follows, in principle, the measure applying to Great Britain which became law at Westminster on December 22, 1937. During the progress of that measure the suggestion was made that Northern Ireland might be included therein, as the subject-matter was closely connected with Imperial matters such as the defence of the realm or matters arising from a state of war. On the other hand, the execution of such a measure by local authorities clearly brought it within the sphere of local government, which is under the control of the Parliament and Government of Northern Ireland. The constitutional doubt was removed by s. 14 of the Westminster Act which declares that the objects of that statute are within the functions of the Northern Ireland Government and that the local Parliament has power to make laws for those objects.

The Northern Ireland Act, while including all urban and rural district councils as local authorities charged with the duty of making air-raid precaution schemes, enables the Ministry of Home Affairs to dispense, in the case of any local authority, with the preparation and submission of a scheme in respect of any specified matter. County councils other than the councils of county boroughs are not charged with the duty of making schemes, but only with the duty of assistance and co-operation for certain purposes of the Act. A safeguard against increase of rateable valuation is given in respect of premises in connexion with which air-raid protection works are undertaken, or which are intended to be occupied and used solely for the purpose of affording air-raid protection; this provision of the Act may be compared with the separate statutes passed for England and Scotland (1 & 2 Geo. 6, cc. 65 and 66).

The Northern Ireland Act provides that a person who wilfully damages or causes or permits to be damaged any premises, equipment, appliances or material used or intended to be used for the purposes of the Act shall be liable, on summary conviction, to a fine not exceeding £50, and in addition to pay such sum as the court thinks just for the purpose of making good any such damage.

Physical Training.—The Physical Training and Recreation Act (c. 12) is an outcome of the movement to secure a healthier population which had made itself felt in Northern Ireland as elsewhere. The general object of the Act is to aid the provision of additional facilities for physical exercise, and to stimulate public interest in the advantages to be gained from the pursuit of fitness. The Act enables grants to be made by the Ministry of Education out of moneys provided by Parliament in aid of certain approved activities. The grants are to be made on the recommendation of a Grants Committee, consisting of a Chairman, appointed by the Prime Minister, and representatives from the Ministries of Finance, Home Affairs, Labour and Education. Local authorities and voluntary

organizations may be assisted by grants up to 50 per cent. of the cost of gymnasiums, playing fields, swimming baths, holiday camps and camping sites and other buildings and premises for physical training and recreation. The Ministry of Education may also assist local authorities and voluntary organizations in employing persons of approved qualifications as organizers or leaders of physical training and recreation.

An Advisory Council is set up in order to encourage the physical fitness movement, and advise, when consulted, as to the administration of the Act. This Council consists of persons appointed by the Prime Minister (not being more than 15 in number) representing education authorities and other local authorities, voluntary organizations and other persons having special knowledge and experience of the matters with which the Council is concerned.

New Code of Law as to Factories.—The Factories Act (c. 23) is both a consolidating and a revising measure. The previous law was spread over a number of statutes, the principal one of these being the Factory and Workshop Act, 1901, which applied through the United Kingdom and therefore remained in force in Northern Ireland as existing law by virtue of the Government of Ireland Act, 1920. As regards Great Britain a new code was embodied in an Act which became law on July 30, 1937 (1 Edw. 8 and 1 Geo. 6, c. 67). The Government of Northern Ireland decided to introduce a similar Bill, and in so doing they were supported by a fairly general opinion among both employers and workers that the statutory provisions for Northern Ireland ought to continue parallel with those in force in Great Britain. The Bill became law without amendment by either House of Parliament, and was timed to come into operation on July 1, 1939.

The objects of the new Factory Act are to revise the law in conformity with modern ideas and standards, and to require improved arrangements to be made for securing the safety and welfare of factory workers.

The Act of 1901 had embodied various enactments, and therefore contained some provisions which had gradually lost their relevance to actual conditions. In particular, there were distinctions in the law between factories and workshops and between textile and non-textile factories. The new Act employs only the term " factories " ; some of its provisions have a limited application, but the Act generally is framed so as to apply to all factories within the revised definition set out in s. 157. The enforcement of sanitary conditions in factories and workshops was under the previous law shared between the Government factory inspectors and the local sanitary authorities, and by the new Act that arrangement is continued with some modifications.

Parts I to IV of the Act relate to health, safety and welfare. The existing provisions in these respects are strengthened and new provisions are introduced with the object of filling up various gaps disclosed by experience, *e.g.* as to lighting (s. 5) and medical supervision (s. 12). By s. 35 the former provisions as to means of escape in case of fire are extended and strengthened on lines which had been recommended by a Royal Commission on Fire Prevention.

Part VI, which relates to employment, prohibits absolutely the employment of children in any factory (s. 74) ; and, for the purpose of this prohibition, the expression " child " means any child up to the age at which the period of compulsory elementary education ends, but a

person is not to be deemed to be a child during any period during which an employment certificate is for the time being in force in respect of that person under the Education Act of 1938 (which is reviewed in this summary). This Part of the Act lays down a new limit in regard to hours of employment of women and young persons. There is a normal maximum weekly limit of 48 working hours, reduced to 44 in the case of young persons under the age of 16 years; a daily maximum limit of 9 working hours; and a maximum period of employment (inclusive of intervals for meals and rest) of 11 hours to be fixed by the occupier between the limits of 7 a.m. and 8 p.m. (6 p.m. in the case of young persons under the age of 16 years)—on Saturdays 7 a.m. and 1 p.m. Provision is also made, by way of an overtime allowance applicable to every factory, to enable pressure of work to be dealt with by the overtime employment (subject to conditions) of women and young persons of 16 years of age and upwards. No overtime is permissible in the case of young persons under 16 years of age, and as regards young persons of 16 and over the Ministry of Labour may prohibit or restrict the overtime for those employed in any particular process if satisfied that such overtime will prejudicially affect their health. By s. 75 an occupier of a factory must not knowingly allow a woman or girl to be employed therein within four weeks after she has given birth to a child. In s. 102 provisions are for the first time introduced to regulate the ordinary hours of work of young persons whose employment—for instance, as messenger or van-boy—lies wholly or mainly outside the factory, or who work at docks or warehouses.

Part VII relates to special applications and extensions of the general provisions of the Act, while Parts VIII to XIII are mainly concerned with re-enacting existing law subject to minor modifications. New provisions are to be found in s. 125, which forbids a person employed in a factory wilfully to interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of the Act for securing the health, safety or welfare of the persons employed in the factory, and requires that, where any means or appliance for securing health or safety is so provided for the use of any such person, he must use the means or appliance. The same section enacts that a person employed in a factory must not wilfully and without reasonable cause do anything likely to endanger himself or others.

The Act covers a wide variety of operations, and it applies both to large undertakings and to small concerns. It is not surprising, therefore, that it should extend to 137 printed pages, containing 162 clauses and 3 schedules.

Social Services.—The Blind Persons Act (c. 8) lowers from fifty years to forty years the age which blind persons must have attained in order to be entitled to old age pensions under the Old Age Pensions Act of 1936. The Blind Persons Act also makes some amendments in the law with respect to the provision of assistance to blind persons by local authorities. It imposes upon the council of each county and county borough the duty of making arrangements, to the satisfaction of the Ministry of Home Affairs, for promoting the welfare of blind persons ordinarily resident in their area. It provides that the steps which a council may take in the performance of this duty are to include the provision and maintenance, or contributions towards the provision and maintenance, of workshops, hostels, homes or other places (whether in

or outside the area of the council) for the reception of blind persons. In determining, in the case of any blind person, the necessity for providing financial assistance the council must take into account not only that person's needs but also the needs of any members of the household of which that person is a member who are dependent on him. A council may also pay, or contribute towards, the funeral expenses of a blind person who was ordinarily resident in their area at the time of his death.

The Unemployment Insurance Act (c. 2) contains various provisions. It extends the power of education authorities by enabling them to provide, for unemployed juveniles attending their authorized courses of instruction, meals and medical (including dental) inspection and treatment, and also to provide light refreshments free of charge for such persons during the hours when instruction is being given. The Act renders insurable, in the same manner as employment in agriculture, certain classes of outdoor domestic service, namely, service as a gamekeeper, warrener, ghillie, river keeper, water bailiff, groom or stableman. Another provision enables the advances made to the current account of the Unemployment Fund by the Exchequer to be kept in parity with the advances outstanding on the Unemployment Fund of Great Britain, in accordance with the reinsurance agreement operating between the United Kingdom Exchequer and the Exchequer of Northern Ireland.

The National Health Insurance Amendment Act (c. 9) was passed in view of a Westminster statute whose extension to Northern Ireland was made dependent on provision being made to that effect either—

(*a*) by an Act of the Parliament of Northern Ireland ; or

(*b*) by an order of the Governor of Northern Ireland in Council made in pursuance of such an Act ;

the direct method at (*a*) was followed. The Westminster statute was passed in order to deal with a difficulty arising on an enactment of the National Health Insurance code which produced, according to a judgment of the High Court, the unintended result of denying to certain persons rights normally flowing from a cessation of employment within the meaning of the code. These rights included the free insurance period during which a person remains eligible for health insurance and pensions benefits, and also a title to maintain insurance by becoming a voluntary contributor. The rights are restored to persons in Northern Ireland by the combined effect of the statutes of the two Parliaments.

By a further amendment of the same code (c. 19) there is restored to certain Dispensary Medical Officers, who are also " panel " practitioners, a deduction which, by virtue of s. 220 of the National Health Insurance Act, 1936, had been made from the remuneration payable to those practitioners in connexion with the administration of medical benefit.

Holidays with Pay.—C. 24 was passed in order to enable Trade Boards to make provision for holidays and holiday remuneration for workers whose wages they regulate, and to enable the Ministry of Labour to assist voluntary schemes for securing holidays with pay for workers in any industry. The procedure under the Trade Boards Act of 1923 is made applicable to directions made by the Trade Boards under the new Act, and the Ministry of Labour is empowered to make such regulations as may be necessary for its working.

Educational Matters.—The Education Act (c. 20) deals with the school-leaving age for the purposes of elementary education.

Since the passing of the Education Act of 1923 the age up to which pupils are required to attend school is 14; the Act of 1938 raises the age to 15, but the obligation of school attendance during the additional year can be satisfied in certain cases without the necessity for full-time school attendance. There is also provision for exemption from full attendance in case the child has obtained beneficial employment, or in the case of domestic necessity or absence of suitable school facilities.

Under the terms of the Act the obligation of attendance for the additional year from 14 to 15 can be satisfied either by full-time attendance at a public elementary school or a secondary school or technical school, or by part-time attendance at technical classes for a period of not less than fifteen hours in the week, the classes being given during the daytime and not later than 6 p.m. There is also an alternative agreement by which some attendance at classes provided by Agricultural Committees may be included as part of the instruction.

The allowable exemptions are of three kinds, distinguished by three forms of certificate to be granted by the Education Authorities—an employment certificate, a certificate of domestic necessity or a certificate as to the absence of suitable school accommodation. In granting a certificate of beneficial employment all the circumstances must be taken into account, and it is laid down in the Act that a child may not be exempted on account of employment unless arrangements can be made for his attendance at some appropriate school or class for at least six hours in each week and during the daytime, wherever such facilities are available. A certificate of domestic necessity may be granted where it is considered that a child ought to be allowed to give assistance in the home for domestic or agricultural work, in which case the Education Authority may permit the child's absence from school for a limited period; this is intended to avoid the hardship which might otherwise be caused—for instance, in the case of small farmers, if they were deprived of the help on the farm of their older children at periods of exceptional work. The third form of exemption may be granted where the Education Authority are satisfied that there is no suitable school available for the child over 14, or no accommodation at such schools as are available; this exemption cannot be given without the approval of the Ministry of Education. In the case of all three forms of certificate there is an appeal to the Ministry of Education where the parent of a child is dissatisfied with the decision of the Education Authority.

The same Act also makes the necessary amendments in the restrictions on employment which are applicable to children up to 14, so as to extend them to children up to 15 years of age.

Certain provisions of the University and Collegiate and Scientific Institutions Act (c. 18) provide financial assistance to the Queen's University of Belfast and the Magee University College, Londonderry. Under s. 1 the Queen's University is to receive an annual grant of £20,000 for the general purposes of the University in addition to the substantial grants already voted. Under ss. 2 and 3 the governing body of the Magee University College is to receive a grant of £2,500 yearly; this sum is to be applied exclusively for the purposes of the Literary and Scientific Department of the College; it is to be payable only so long as that Department is maintained in the College; and the accounts of that Department are to be kept separate and distinct from other accounts of the governing body. The Minister of Finance is, by s. 4, given power

to appoint three additional trustees to be members of the governing body.

The Queen's University of Belfast Act (c. 21) alters the constitution of the Senate of the University by providing that the honorary treasurer of the University and the secretary of the Academic Council (if a member of that Council) shall be *ex-officio* members of the Senate. The Act recites the approval of the following bodies, namely, the Senate and the Academic Council and the Convocation of the University, such approval being required by reason of s. 64 of the Government of Ireland Act, 1920.

The provisions of the Superannuation (Teaching Services) Act (c. 10) are for the benefit of pensionable teachers, a term which includes any teacher (including an agricultural or technical teacher) who pays contributions towards superannuation either under the Education Act of 1923 or by virtue of an Order in Council applying that Act. S. 1 provides increased superannuation benefit in the case of teachers who had suffered a reduction as a result of salary cuts made during an economy regime. S. 2 provides for the application to teachers of an arrangement already in force as regards civil servants, so that a teacher on retirement on pension may allocate a part of his or her pension to a dependant. S.3 provides that, when a civil servant employed in certain capacities by the Ministry of Education or the Ministry of Agriculture is transferred to teaching service, his pensionable service as a civil servant is to be reckoned as teaching service for the purpose of teachers' pensions. S. 4 alters the law as to the declarations to be made for the proof of existence and identity by pensioned teachers, substituting an annual declaration for the quarterly declaration formerly required.

The Armagh Observatory.—In the year 1791 the Parliament of Ireland passed an Act for settling and preserving a public observatory and museum in the city of Armagh for ever. The preamble of the statute explains that " the most reverend father in God, Richard lord archbishop of Armagh, primate and metropolitan of all Ireland, out of his generous inclinations to the good of this kingdom, and for the encouragement of the liberal arts and sciences, very lately at his own cost and charges erected and built such observatory and museum." In view of further endowments intended by the primate, and legal doubts as to the want of a licence in mortmain and an incorporation of the governing body, the Act proceeded to make the necessary provisions, and under these the Armagh Observatory and Museum stands to-day as a going concern with its " astronomical instruments, optical glasses and natural or other curiosities " under an energetic and progressive astronomer. The Parliament of Northern Ireland has not neglected this institution, and in particular the University and Collegiate and Scientific Institutions Act (c. 18) contains some useful provisions for promoting its well-being. The Act enables Parliament to vote, for the purposes of the Observatory, such sums as the Minister of Finance may from time to time determine to be necessary for those purposes. It provides for the appointment of two additional *ex-officio* governors, one to be appointed by the Governor of Northern Ireland and one by the governing body of the Queen's University of Belfast ; it also increases from two to three the number of persons whom, under the Act of 1791, the governors of the Observatory may elect to be joined with them in the trust. Power is also given to the governors to sell or lease any part of the lands held on the trusts declared in the Act of 1791, if the Ministry of Finance is satisfied that the proposed sale or

lease would be to the advantage of the said trusts, or would be in the public interest and can be effected without affecting prejudicially the interests of those trusts.

Marketing of Exported Potatoes.—The purpose of the Marketing of Potatoes Act (c. 25) is to apply statutory sanction to certain potato-marketing methods and restrictions which had previously been operated voluntarily. Previous statutes, which had provided for the maintenance of standards of quality in the case of potatoes exported from Northern Ireland to Great Britain, had enabled Northern Ireland potatoes to secure a firm position on the British market. It was not, however, possible under those Acts to deal with one particular problem of the trade—the " undercutting " of prices. When a Potato Marketing Board was set up in Great Britain, an arrangement was made by which a voluntary association, composed of merchants, farmers' representatives and a representative of the Ministry of Agriculture, should issue in each week to all Northern Ireland licensed shippers, during the potato shipping season, a list of prices to which they were expected to keep during the week following. It was also agreed, so as to prevent a glut, that in a year of surplus in Great Britain exports from Northern Ireland should be limited. These agreements were voluntary, and in view of the experience which was gained the interests concerned agreed to recommend that the voluntary system should be replaced by one based upon an Act of Parliament.

The Act of 1938 accordingly provides for the framing of a marketing scheme by the Ministry of Agriculture, to be drawn up in consultation with representatives of licensed merchants and of producers. Provision is made for the appointment under the scheme of a Potato Marketing Committee, also of a representative character. The scheme is to be financed by the payment of contributions by licence-holders of such amounts as will cover the expenses of the scheme, assessed on the basis of tonnage shipped. The fund into which the contributions will be paid is to be administered by the Potato Marketing Committee. In order that the Committee may be supported in the operation of the scheme, the Northern Ireland Ministry of Agriculture is empowered to regulate the movement of potatoes into Great Britain.

The marketing of potatoes for the Great Britain market has more than once presented technical difficulties owing to the restriction imposed by the Government of Ireland Act, 1920, upon the powers of the Northern Ireland Parliament to legislate in respect of trade with places outside Northern Ireland. By the Northern Ireland (Miscellaneous Provisions) Act of 1928 power was given, for that purpose, to enable regulations to be made as regards standards of quality, and that power was made use of by passing the Marketing of Potatoes Act of 1928.[1] The scheme for the maintenance of prices, which is contemplated by the Act of 1938, may in part depend for its validity upon s. 28 of the Agricultural Marketing Act, 1933. That enactment enables marketing schemes made under Northern Ireland authority to have effect outside the jurisdiction conferred by the Government of Ireland Act, if the provisions of the scheme are certified by a Secretary of State to subserve the operations of marketing schemes and other statutory restrictions in force in Great Britain. The Northern Ireland Potato Marketing Scheme is designed to come within the terms of such a certificate.

[1] See *Journ. Comp. Leg.*, Third Series, vol. xii, pt. ii, p. 17.

Milk and Milk Products.—For the encouragement of undertakings engaged in the manufacture of milk products other than butter and cream provision is made by c. 15 that the equalization payment and the bonus payable out of the Milk Fund shall include payments in respect of milk delivered to a "processed milk factory." The Act provides, in this connexion, for an additional contribution to the Milk Fund out of moneys provided by Parliament. The same Act provides for registration with the Ministry of Agriculture of premises used for the manufacture of milk products. It also enables a reduction, or a rebate, to be made in respect of the statutory licence fees in the case of butter and margarine sold for manufacturing purposes—a term which is defined as meaning "manufacture into articles by way of trade," and as including cooking in connexion with meals or refreshments provided at an hotel, restaurant or other place of refreshment.

Loans Guarantee Acts.—The purpose of c. 5 is to amend the Acts under which the Ministry of Finance may give guarantees in respect of loans for undertakings calculated to promote employment in Northern Ireland. The Act extends the time within which the power of giving guarantees, which was first conferred in the year 1922, can be exercised.

Fumigation with Hydrogen Cyanide.—The Hydrogen Cyanide (Fumigation) Act (c. 4) empowers the Minister of Home Affairs to make regulations with a view to protecting persons from danger in connexion with the fumigation of premises, ships, vehicles, aircraft, etc., with hydrogen cyanide. It also provides that notice shall be given to the Minister of any accident occasioning the loss of human life or personal injury which occurs as the result of the fumigation of any premises or article with hydrogen cyanide. The provisions of the Act may be applied by Order in Council to fumigation with other substances.

Weights and Measures Administration.—In Northern Ireland the former powers and duties of the Board of Trade in regard to the administration of the law relating to weights and measures became the business of the Ministry of Commerce. Inspectors of Weights and Measures, however, were not civil servants controlled by that Ministry, but police officers who had qualified to undertake the work by passing the Board of Trade examination. By the Weights and Measures Act (c. 11) the work of inspection was transferred to persons appointed by the Ministry of Commerce and qualified in accordance with the previous Acts. The statute also enacts that the provision of standards of weights and measures and other equipment, the travelling expenses of inspectors, and expenditure on office accommodation shall be matters for the Ministry of Commerce and not for the county and borough councils. The scope of the Act is limited, but, as often happens in the case of a transfer of administration, a large number of minor and consequential amendments of enactments had to be made.

Road Transport.—A short emergency measure (c. 1 of the second session) was passed as an instalment of the task of dealing with difficulties which had arisen in the working of the Road and Railway Transport Act of 1935. The measure provides for the establishment by the Ministry of Home Affairs of a register of all licensed goods vehicles, which is to contain particulars furnished by the licence-holder as to the nature and scope of the user of the vehicle and the trade or business, if any, carried on by the licence-holder. Restrictions are imposed on the road transport operations of persons whose road motor undertakings have been acquired by

the Road Transport Board, and who have received, or are entitled to receive, consideration under the Act of 1935 for the goodwill and business connexion of such undertakings. The Act of 1935 is also amended by placing on the owner of a transport undertaking the onus of proof that the undertaking is one which the Transport Board are bound to acquire, and the Board are not to be bound or empowered to acquire any undertaking unless an application for that purpose is received by a specified date, *i.e.* March 1, 1939, or unless, after that date, the High Court directs them to acquire it.

Taxation.—The Finance Act (c. 16) is a measure more popular than such measures usually are, because it gives effect to taxation concessions announced by the Minister of Finance in his Budget statement and does not increase any existing taxation. The effect of s. 1 is to reduce the rates of motor vehicle duties on goods vehicles and hackney carriages to those in force at the time in Great Britain. By s. 2 provision is made for abolishing the fee of 5*s.* in the case of motor-cycles, and 10*s.* in the case of other motor vehicles, formerly chargeable on an application for a refund of the surrender value of the licence for the vehicle. S. 3 repeals the Hawkers Act, 1888, which imposed an excise licence duty of £2 on persons hawking goods in horse-drawn vehicles and (by virtue of the Finance Act of 1936) also on persons hawking goods in motor vehicles. The incidence of the tax had been investigated by an inter-departmental committee, whose report disclosed anomalies arising from the operation of the previous enactments. Estate Duty law is amended by s. 4 so as to increase from £25 to £52 a year the limit of exemption from liability to Estate Duty of annuities left by deceased persons for the benefit of their dependants; the same section also gives modified relief on a diminishing scale in the case of annuities between £52 a year and £104 a year, at which point the ordinary rates of duty become payable.

The Solicitors' Act.—The laws in England and Ireland, respectively, for regulating the profession of solicitors have always been governed by similar principles. The solicitor or attorney must first learn his trade by being articled or apprenticed for a period of years to a qualified practitioner; he must then be admitted to practice by some authority of the Judiciary; and, upon admission, his professional standing and his responsibility as a practitioner are alike secured by regarding him as an officer of the Court, with the consequential liability to be removed from that position. The earlier statutes in England and Ireland dealt with these fundamentals. In the nineteenth century two new principles were gradually developed, and they have achieved an important place in the system as it is now worked in both countries—the chartered "Law Society" representative of the profession, and the application of external educational tests to the apprentices. The statutory details of the English system can be found in the Acts of 1932 and 1933 (22 & 23 Geo. V, c. 57, and 23 & 24 Geo. V, c. 24).

As regards Northern Ireland, the relevant Acts are the Solicitors (Ireland) Act, 1898, the Solicitors Act (Northern Ireland), 1922, and the Solicitors Act (Northern Ireland), 1938 (c. 14) with which this review is concerned. A person (man or woman) becomes a solicitor of the Supreme Court of Judicature in Northern Ireland on admission by the Lord Chief Justice; and the Lord Chief Justice and the other Judges of the Supreme Court retain their extra-statutory jurisdiction over solicitors as officers of the Court. The representative professional body is the Incorporated

Law Society of Northern Ireland, which received power, by virtue of a charter of July 10, 1922, to exercise the like jurisdiction in Northern Ireland as was formerly exercised, under the Act of 1898, by the Incorporated Law Society of Ireland over solicitors and persons seeking to become solicitors. This amounted to a jurisdiction, subject to the statute, as respects admissions to the profession of solicitors, the enrolling of apprentices to solicitors, the legal education of apprentices, the conduct of examinations, the appointment of lecturers and examiners, and the collection of fees and penalties. Following the issue of the charter, the Parliament of Northern Ireland passed the Act of 1922, providing that the Act of 1898 should have effect in Northern Ireland subject to certain adaptations and modifications, and, in particular, that references in that Act to the Incorporated Law Society of Ireland should be construed as references to the Northern Ireland Society incorporated by the new charter. The Act of 1938 is not a consolidating Act, and it cannot be viewed apart from the statutory background supplied by the Acts of 1898 and 1922. Of its various provisions only the more important can be mentioned here.

Part I of the Act relates to education, apprenticeship and qualifications. The Law Society takes a regulating power wider in scope than that which was formerly exercisable. The Society must provide for the holding, at least once in each year, of a preliminary examination and a final examination. A former provision for holding an intermediate examination is superseded by a power to hold such other examinations as may be prescribed in order to test the progress made by apprentices during apprenticeship and by persons who, having finished their apprenticeship, have not yet been admitted as solicitors. It is understood that the Society envisages several examinations during apprenticeship, so as to supply an encouragement to constant and steady work on the part of the student. Formerly a solicitor might have two apprentices at the same time, but the new Act provides that a solicitor may have only one apprentice unless he obtains, in special circumstances, the consent of the Society to his having two apprentices. Subject to certain conditions, service by an apprentice with the Belfast agent of a master practising in a country town is to be regarded as service with the master. In order to be admitted as a solicitor a candidate must obtain from the Society a certificate to the effect that he has passed the prescribed examinations to the satisfaction of the Society, and that he is a person fit and capable to act as a solicitor and in the usual business transacted by a solicitor, and that he has complied with the prescribed regulations. The passing of the preliminary examination is not to be required from any person who passes, and attains the prescribed standard, in such examination, in such subjects, as may from time to time be accepted under regulations as an examination in lieu of a preliminary examination. The examinations to which this provision applies are those held in the Universities at present established in the United Kingdom (including the Queen's University of Belfast), and in the University of Dublin and the National University of Ireland. For this purpose there may also be included examinations held in any such college or educational institution, or under any such authority established in the United Kingdom or Eire, as may be recognized by regulations of the Society. Any university which may in future be established in the United Kingdom may be added to the list by regulations. The Society may also, by regulations, provide

whether the whole or any part of any period spent at any of the above-mentioned universities by a person bound under indentures of apprenticeship may be computed as part of the term of apprenticeship, which, in general, is not to exceed 5, and not to be less than 3, years.

Part II of the Act relates to applications and orders in disciplinary matters. It constitutes a Disciplinary Committee to be appointed by the Lord Chief Justice from among members of the Council of the Society and such former members of the Council as are members of the Society and are practising as solicitors in Northern Ireland. To this committee are to be addressed both a " permissive " application—that is an application by a solicitor himself to procure his name to be removed from the roll—and an " adverse " application—that is, an application by another party to have the name of a solicitor struck off the roll or to require him to answer an allegation in respect of his professional conduct. On completion of an inquiry into an adverse application the committee must embody their finding in a report to the Lord Chief Justice. If the committee find that the case is not of such a nature that they can deal with it themselves in a summary manner, they must set down the report for hearing before the Lord Chief Justice, who, after hearing the case, may cause the name to be struck off the roll or may suspend the solicitor from practice or may censure or fine him. If, however, the committee, after inquiry, find that a solicitor has been guilty in respect of the matter complained of, but are of opinion that his conduct does not warrant his being struck off the roll or suspended from practice, then, instead of setting down the report for hearing before the Lord Chief Justice, they may censure the solicitor, and, if they think fit, may impose upon him a fine not exceeding £100, and order him to pay costs and expenses as measured by them. The Act provides for an appeal to the Lord Chief Justice from any order of the committee made by virtue of this punitive jurisdiction.

Under Part III of the Act the Society have power to make regulations as to the opening and keeping by solicitors of accounts at banks for clients' moneys, and as to the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid by them for or on account of their clients. Another important power vested in the Society is that which confers the right to make regulations as to the professional practice, conduct and discipline of solicitors. The provisions made by this Part of the Act are similar to those obtaining in England under the Solicitors Act, 1933.

Part IV makes provision for various restrictions and offences in connexion with practice, and these provisions are designed to supplement the Act of 1898 in the light of present conditions.

The Bill for the new Act was a Private Member's Bill, but it would not have become law unless special facilities had been accorded to it by the Government. For a full analysis of the provisions of the statute reference may be made to *The Northern Ireland Legal Quarterly*, vol. ii, Nos. III and IV, and vol. iii, No. I (published by the Incorporated Law Society of Northern Ireland, Belfast).

Architects Registration Act applied to Northern Ireland.—When the Act of 1931 was passed at Westminster it was recognized that the area for the registration of architects ought to consist of the United Kingdom as a whole, thus including Northern Ireland. The problem which arose, owing to the registration of architects being a matter within the powers

of the Northern Ireland Parliament, was solved by enacting that the Act of 1931 should not extend to Northern Ireland unless and until it should be so provided by an Order of His Majesty in Council, made in pursuance of a resolution passed by both Houses of the Northern Ireland legislature. This arrangement afforded a precedent for the application to Northern Ireland of the Architects Registration Act, 1938, an amending Act whose main provision is to protect the title of " architect," whereas the 1931 Act had protected only the title " registered architect." A resolution was accordingly passed by both Houses in Northern Ireland, and an Order in Council was made in pursuance of that resolution on December 20, 1938 (S.R. & O. 1938, No. 1572, p. 329).

5. EIRE.

[*Contributed by* A. Denis Pringle, Esq.]

Public Acts passed—38. Private Acts passed—2.

Finance.—The Finance Act (No. 25) continued income-tax at 4*s.* 6*d.* in the £. S. 6 contained provisions intended to prevent escape from income-tax by transferring the right to receive interest on securities without selling or transferring the securities themselves. Part II of the Act dealt with income-tax in relation to the administration of deceased's estates. Exemptions from all customs duties are given to fire brigade vehicles (s. 17) and to certain articles designed, constructed and intended specifically or primarily for the use of blind persons (s. 18). The Financial Agreement made between Eire and the United Kingdom on April 25, 1938, rendered necessary two Acts—the Finance (Agreement with United Kingdom) Act (No. 12), which amended and modified the rates of customs duty on certain articles manufactured in the United Kingdom or Canada, and the Agreement with United Kingdom (Capital Sum) Act (No. 13), which provided for the payment of £10,000,000 to the Government of the United Kingdom, this being the sum agreed on in respect of the claim of that Government to the Land Annuities. The Act also provides power for the Minister for Finance to borrow money for the purpose of making the payment.

Industrial Alcohol.—The Industrial Alcohol Act (No. 23) makes provision for the formation of a company for the purpose of the manufacture and sale of industrial alcohol, which, under an earlier Act of 1934 (now repealed), was confined to the State. The company is given power to acquire land compulsorily, and the Act contains provisions for the compulsory purchase by distributors of industrial alcohol from the company.

Insurance.—The Insurance (Amendment) Act (No. 31) gave statutory effect to an agreement made between four Irish insurance companies for the transfer of their life assurance business and their industrial assurance business to a single company to be called the Irish Assurance Company, Limited.

Parliament.—The Oireachtas (Allowance to Members) Act (No. 34) increased the allowance to be paid to members of Dáil Eireann from £30 to £40 a month, free of income-tax, while Members of the Senate are still to receive £30 a month. Provision is also made in the Act for an allowance to members for travelling expenses.

President.—The Presidential Establishment Act (No. 24) provides that the emoluments and allowances to be received by the President of Eire

shall be at the rate of £10,000 per annum, whereof £5,000 shall be the personal remuneration of the President. In addition, an official residence for the President is to be provided and maintained (s. 2), a pension of £1,200 per annum is payable to ex-Presidents, and a pension of £500 per annum to widows of ex-Presidents.

Red Cross.—The Red Cross Act (No. 32) dealt with the establishment in Eire of a Red Cross Society, restricted the use without the consent of the Minister for Defence of the heraldic emblem of the red cross, and repealed the Geneva Convention Act, 1911.

Salaries.—The Ministerial and Parliamentary Offices Act (No. 38) revised the salaries payable to members of the Government, parliamentary secretaries, the Attorney-General and the chairman and vice-chairman of the Dáil and Senate. It also provided for the first time for the payment of additional allowances to the leaders of the "Second and Third Parties" in Dáil Eireann, and for the payment of pensions to ex-ministers and ex-holders of parliamentary offices. The salaries provided for are as follows: Prime Minister £2,500, other members of the Government £1,700, Parliamentary Secretaries £1,200, Attorney-General £2,500, Chairman of Dáil £1,700, Vice-Chairman £1,000, Chairman of Senate £1,200, Deputy-chairman £750, Leader of Second Party £800, Leader of Third Party (£500 provided that the numerical strength of the Third Party is not less than seven).

Shops.—Two Acts of some importance were passed during the year. The Shops (Hours of Trading) Act (No. 3) empowers the Minister for Industry and Commerce to make orders specifying closing hours for certain businesses, provides for a compulsory weekly half-holiday on which shops must be closed at 1 p.m., and contains elaborate provisions in regard to Sunday trading.

The Shops (Conditions of Employment) Act (No. 4) prohibits the employment in shops of persons under 14 years of age (s. 16), restricts the employment at night of juveniles, fixes maximum daily and weekly working hours, provides for compulsory holidays at full pay, and for the establishment of a Shop Wages Board with power to fix minimum rates of wages, and contains provisions for the health and comfort of members of the staffs of shops (Part VI).

Private Acts.—The Erasmus Smith Schools Act (No. 1) was rendered necessary by the settlement arrived at between the parties in the protracted litigation as to the administration of the charitable endowments of Erasmus Smith, Esquire, a wealthy benefactor who lived in the seventeenth century. The Mountjoy Square Dublin Act (No. 2) empowered the Dublin Corporation to acquire Mountjoy Square, to be maintained as a public park or pleasure ground.

II. NORTH AMERICA.

1. DOMINION OF CANADA.

[*Contributed by* FREDERICK READ, ESQ., LL.B., *Professor of Law, Manitoba Law School.*]

Acts passed—147: Public—54; Local and Private—8; Divorce—85.

The Third Session of the Eighteenth Parliament began on January 27, 1938, and closed by prorogation on July 1, 1938.

Banking.—C. 42 makes a number of amendments to the Bank of Canada Act. The Bank is to be under the management of a Board of Directors composed of a governor, a deputy governor and eleven directors appointed in accordance with the provisions of the Act. There may also be an assistant deputy governor, who shall not as such be a member of the Board. The governor of the Bank is to be the chief executive officer and on behalf of the Board is to have the direction and control of the business of the Bank, with authority to act in connexion with the conduct of such business in all matters which are not by the Act or by the by-laws of the Bank specifically reserved to be done by the Board or by the executive committee. Power is given to the Minister, with the approval of the Governor in Council, as of March 1 in each year to appoint for terms of three years each a sufficient number of directors to provide that there shall be eleven. In the transaction of the business of the Bank each director is to have one vote, and on the expiration of their terms of office the directors are eligible for reappointment. The directors are to be selected from diversified occupations; but no person is eligible for appointment who is a director, officer or employee of a chartered bank; and any person appointed as a director who is a shareholder of a chartered bank must divest himself of ownership of his shares within three months of the date of his appointment and shall not thereafter during the term of his office have an interest, either directly or indirectly, as a shareholder in a chartered bank. No person is to be appointed, or to continue to hold office as a director, who is not a British subject ordinarily resident in Canada, or who is employed in any capacity in the public service of Canada or of any Province of Canada or who holds any office or position for which any salary or other remuneration is payable out of public moneys. A director may, however, perform temporary services for the Government of Canada or any Province, for which he may be reimbursed actual living and travelling expenses; and no person is to be appointed, or to continue to hold office as a director, who has reached the age of seventy-five years. The capital of the Bank is to be $5,000,000, but may be increased from time to time pursuant to a resolution passed by the Board of Directors and approved by the Governor in Council and by the Parliament of Canada. The capital is to be divided into 100,000 shares of the par value of $50 each, which shall be issued to the Minister to be held by him on behalf of the Dominion of Canada. The shares issued to the Minister are to be registered by the Bank in his name in the books of the Bank at Ottawa. As from the date of the coming into force of the amendments, the Minister shall exchange 100,000 Class "B" shares of the Bank out of the 102,000 Class "B" shares of the Bank then held by him for 100,000 shares of the capital of the Bank authorized to be issued by s. 17 of the Bank of Canada Act; and the 100,000 Class "B" shares of the Bank so exchanged shall forthwith be cancelled. The Bank shall, from the date of the coming into force of the amendments, pay to each holder of Class "A" shares of the Bank the sum of $59.20 for each Class "A" share registered in his name at the close of business on July 15, 1938, together with the amount of dividends accrued to the date of the coming into force of these amendments; and all Class "A" shares of the Bank shall be deemed to be cancelled as from the latter date. As from the date of the coming into force of these amendments the Minister shall reimburse the Bank the amount by which payments made by the Bank to the holders of Class "A" shares, excluding any amount paid by the way of

dividend, exceed the par value of such shares, and such reimbursement shall be effected by surrendering to the Bank for cancellation 2,000 of the Class " B " shares held by the Minister having the accrued par value of $100,000 and by paying to the Bank the sum of $820,000. The Bank is, on the date of the coming into force of these amendments, to pay to the Minister on behalf of the Dominion of Canada the amount of dividends accrued up to the said date upon the 102,000 Class " B " shares of the Bank held by the Minister as of the said date. Power is given to the Bank to buy and sell Dominion or provincial securities and securities of the United Kingdom or the United States of America. Provision is also made as to the reserves to be maintained by the chartered banks and as to the establishment of a Rest Fund. The fiscal year of the Bank is to be the calendar year, and the Bank is to transmit annually to the Minister a statement of its accounts for the fiscal year and a report by the governor. A copy of the accounts is also to be advertised in the *Canada Gazette*, and if Parliament is then sitting is also to be laid before Parliament. No statute relating to the insolvency or winding up of any corporation is to apply to the Bank, and in no case are the affairs of the Bank to be wound up unless Parliament so provides. If, however, provision is made for winding up the Bank the notes of the Bank outstanding are to be the first charge upon the assets. C. 42 came into force on August 15, 1938. (See vol. 72, *Canada Gazette*, p. 185.)

Bankruptcy and Insolvency.—The Farmers' Creditors Arrangement Act was amended by c. 47 so that the term " creditor " shall include a person holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the debtor and, in case the debtor holds real property under an agreement of sale or under an assignment of an agreement of sale, the vendor of such property or any person entitled under an assignment by the vendor, notwithstanding the absence of privity of contract between the debtor and any of the persons mentioned. Provision is also made enabling a proposal to be made by the legal representative of a deceased farmer; and if the farmer defaults in carrying out any of the terms of the proposal and the default was not due to causes beyond the control of the farmer, the court may, on the application of any creditor, annul the composition, extension of time or scheme of arrangement, and the farmer will then be deemed to have committed an act of bankruptcy within the meaning of the Bankruptcy Act. The stay of proceedings which results under the Farmers' Creditors Arrangement Act on the filing of a proposal is to be effective only until the date of the final disposition of the proposal. No new proposal is to be made or filed by any farmer or accepted by any official receiver in any Province on and after a date to be fixed by the proclamation of the Governor in Council; and no proposal is to be received in Manitoba or British Columbia later than June 30, 1939, nor in any other Province, except the Provinces of Saskatchewan and Alberta, later than December 31, 1938. This does not, however, apply to farmers who are soldier settlers within the meaning of the Soldier Settlement Act. No new proposal, however, is to be made, filed or accepted from soldier settlers in Nova Scotia, New Brunswick, Prince Edward Island or Quebec on and after May 11, 1939, or from Ontario on and after May 31, 1939. (See proclamation, vol. 72, *Canada Gazette*, p. 2845.)

Copyright.—The Copyright Amendment Act, 1931, has been amended by c. 27, and each performing rights society is required from time to time

to file with the Minister lists of the works in current use in respect of which the society *has* authority to issue or grant performing licences or to collect fees, etc. The word " has " is substituted for the word " claims " used in the 1936 amendment. In respect to performances without private profit, the Copyright Act is amended by repealing paragraph 7 of s. 17 (1) as enacted by s. 6 of the Copyright Amendment Act, 1931, which provided that " the performance of any musical work by any church, college or school, or by any religious, charitable or fraternal organization, provided such performance is given without private profit for religious, educational or charitable purposes," should not constitute an infringement of copyright ; and by providing that " the performance without motive of gain of any musical work at any agricultural, agricultural-industrial exhibition or fair which receives a grant from or is held under Dominion, provincial or municipal authority by the directors thereof shall not constitute an infringement of copyright." A further amendment is made by providing that in respect of public performances by means of any radio, receiving set or gramophone in any place other than a theatre which is ordinarily and regularly used for entertainments to which an admission charge is made, no fees, charges or royalties shall be collectable from the owner or user of the radio, receiving set or gramophone, but the Copyright Appeal Board is, so far as possible, to provide for the collection in advance from radio broadcasting stations or gramophone manufacturers, as the case may be, of appropriate fees, charges and royalties and to fix the amount of the same. The Copyright Act is further amended by providing that no church, college or school and no religious, charitable or fraternal organization shall be held liable to pay any compensation to the owner of any musical work or to any person claiming through him, by reason of the public performance of any musical work in furtherance of a religious, educational or charitable object.

Excise.—The Excise Act was amended by c. 29 in various respects too numerous to mention here in detail, in regard to dealings in tobacco, conditions under which a licence for chemical stills may be granted, abatement on spirits rewarehoused, deficiencies in distillery stock and wood absorption, the entry of spirits for consumption and information to be contained in labels, etc., attached to beer casks, barrels and bottles.

Farming.—Provision is made by c. 13 to assist the Provinces of Alberta and Saskatchewan in financing the cost of seed and seeding operation for the crop year 1938 by means of guarantees of bank loans. (See also Bankruptcy and Insolvency, *supra*.)

Municipalities.—C. 33 empowers the Minister of Finance, with the approval of the Governor in Council, to enter into an agreement with any municipality to make a loan or loans to the municipality to enable it to pay the whole or any part of the cost of constructing or making extensions or improvements to or renewals of a municipal waterworks system, gas plant, electric light system or other municipal project, provided that the project will be a self-liquidating project, that is to say, one which when completed will, on the basis of conservative estimates, result in an increase in the annual net revenue of the municipality.

Pelagic Sealing.—C. 39 was passed for the purpose of enforcing and carrying out the provisions of the Convention entered into between the United Kingdom of Great Britain and Ireland, the United States of America, Japan and Russia, and respecting measures for the preservation and protection of the fur seals in the North Pacific Ocean, signed at

Washington on July 7, 1911. The Minister of Fisheries has the administration of the Act and of the regulations made thereunder by the Governor in Council; the Attorney-General of Canada may, in His Majesty's name, sue for or enforce any penalty or forfeiture incurred under the Act; all actions for the recovery or enforcement of penalties or forfeitures imposed by the Act must be commenced within three years after the offence was committed; and the Act is to continue in force until a day which may be fixed by proclamation by the Governor in Council following upon the termination of the Convention, and no longer.

Prairie Provinces.—Agreements between the Dominion Government and the governments of the respective Provinces, confirming the transfer to the respective Provinces of the interest of the Crown in the waters and water powers within the Provinces under the Irrigation Act and the Dominion Water Power Act, were confirmed by c. 36.

Radio.—The Radio Telegraph Act, R.S.C. 1927, c. 195, has been repealed and the Radio Act, 1938, c. 50, has been enacted for the purpose of regulating broadcasting and radio activities generally.

Railways.—C. 22 provides for the refunding of certain matured, maturing and callable financial obligations of the Canadian National Railways; and c. 43 authorizes the provision of moneys to meet certain expenditures made and indebtedness incurred by the Canadian National Railways system during the calendar year 1938, and to authorize the guarantee by His Majesty in the right of the Dominion of Canada of certain securities to be issued by the Canadian National Railway Co.

Relief and Unemployment.—Under c. 25 provision is made for the Dominion to continue to support and supplement the measures of the Provinces and other bodies to establish certain unemployed persons in gainful occupations, to train other unemployed persons for like establishment and to assist those in need and thereby lessen provincial and municipal burdens consequent upon unemployment and agricultural distress.

Shipping.—The Canada Shipping Act, 1934, is amended by c. 6, by providing that there shall be levied and collected on every ship arriving in any port of the Provinces of Quebec, Nova Scotia, New Brunswick, Prince Edward Island, British Columbia or in any port on Hudson Bay or James Bay in Manitoba or Ontario a duty of 2 cents for every ton which the ship measures, registered tonnage. This duty is not to be levied or collected on a ship engaged in the coasting trade of Canada which has not made a payment on account of such duty during the calendar year and which arrives at any port in any of the said Provinces from any other port in the same Province, or which arrives at any port in the Province of Quebec from any port in Ontario, nor to a ship which came from and is returning or proceeding immediately to a place out of Canada and has paid duty since arrival in a previous port of call in Canada, nor to a ship which is a barge, scow or lighter, which does not carry any crew and is not self-propelling. C. 26 amends the Canada Shipping Act by prohibiting the discharge of articles of war at any port or place in any territory designated by the Governor in Council or within the territorial waters adjacent to such territory from a ship registered in Canada; and no such article is to be transhipped on the high seas from any such ship into any vessel bound for any port or place and no such article consigned to or destined for any such port or place shall be taken on board or carried in any such ship. The Governor in Council may from time to time by

regulation designate any territory or territories in which there is a state of war or armed conflict, civil or otherwise, in respect to which these provisions shall apply.

Trade Agreements.—C. 19 approves the trade agreement between Canada and Guatemala which was signed on September 28, 1937; and c. 20 similarly approves the trade agreement between Canada and Hayti which was signed on April 23, 1937. The first-mentioned of these statutes came into force by proclamation on January 14, 1939, and the latter on January 10, 1939.

Trans-Canada Air Lines.—Under c. 15 Trans-Canada Air Lines (herein called " the corporation "), with the approval of the Governor in Council, is empowered to acquire and dispose of shares in the capital stock of a company to be incorporated under the laws of England by the following companies, acting in co-operation, namely, Imperial Airways Limited or such other company as may be nominated by the Government of the United Kingdom, Aer-Rianta, Teoranta, or such other company as may be nominated by the Government of Eire, and the corporation, for the purposes, *inter alia*, of establishing and carrying on the business of an aerial transport company operating a trans-Atlantic or transport service between Europe and North America. The Governor in Council may also authorize the Minister to enter into a contract with the corporation for the organization, operation and maintenance by the corporation of lines of aircraft between points in Canada and points outside of Canada, over routes wholly within or partly within and partly outside of Canada.

Transportation.—Under c. 53 an Act was passed to establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft. Under s. 3, the Board of Railway Commissioners for Canada are hereafter to be and to be known as the Board of Transport Commissioners for Canada. The Board is to perform the functions vested in it by the Act, in respect to transport by water and air, and also the functions vested in the Board by the Railway Act, with the object of co-ordinating and harmonizing the operations of all carriers engaged in transport by railways, ships and aircraft.

2. ALBERTA.[1]

Acts passed—99.

Social Credit Realization.—C. 3 constitutes as a Board, to be known as the Social Credit Board, five members of the Legislative Assembly.

The Board is authorized and empowered to devise ways and means for the evaluation, conservation, enhancement, advancement and realization of the social credit of the people of the Province.

Alberta Social Credit Repeal Act.—C. 4 repeals the Alberta Social Credit Act, c. 10 of 1937.

Mineral Taxation.—C. 5 provides for the imposition of a tax on minerals other than minerals held under lease or licence from the Crown in the right of the Dominion or the Province, and other than minerals within the corporate bounds of cities and towns other than mining towns and minerals in land forming the right-of-way of a railway, at the rate of one-third of 1 per cent. per acre on the surface area of the parcel of land

[1] Summarized from the synopsis of statutes prepared by R. Andrew Smith, Esq., K.C., Legislative Counsel.

containing the same, payable by the person who has the right to search for, win and get the minerals. The tax falls due on August 1 in each year.

Securities Tax.—C. 7 imposes a tax of 2 per cent. on the amount owing on account of the principal sum advanced under any first, second or third mortgage of land in the Province as at April 1, 1938.

The tax is not payable by a natural person in excess of such an amount as would reduce his taxable income by more than 25 per cent. of a taxable income of $500; by more than 33⅓ per cent. of a taxable income of more than $500 and not more than $1,500; and by more than 50 per cent. of a taxable income in excess of $1,500.

Grain Buyers' Licensing.—By c. 11 "grain buyer" is defined as a person who carries on or transacts the business of buying or soliciting grain either as a principal or agent either for cash or under any form of contract with respect to delivery or payment, for shipment by railway, but does not include persons buying grain for seed, feed or otherwise for his own personal use (s. 2).

Part I of this Act prohibits the carrying on in the Province of the business of a grain buyer by any person who is not licensed under the Canada Grain Act either as a commission merchant, track buyer or grain dealer (s. 3).

The purchase of grain in the Province otherwise than by its grade name or by reference to a sample selected under the regulations made pursuant to the Canada Grain Act is prohibited (s. 4).

Part II of the Act provides for the licensing of grain buyers and their agents (ss. 5–7).

Wild Lands Tax.—By c. 12 an annual tax called the Wild Land Tax is made payable in respect of all lands within the Province not exempted from taxation; the tax is at the rate of 2 cents per acre or at such lesser rate as may be fixed from time to time by the Lieutenant-Governor in Council, with a minimum tax of 25 cents for any lot or any fraction of a quarter-section.

Agreement between the Dominion and the Province.—C. 14 approves, ratifies and confirms an agreement entered into between the Government of the Dominion of Canada and the Government of the Province. It varies the agreement transferring the natural resources to the Province, for the purpose of making it clear that the transfer to the Province includes waters and water powers and for the further purpose of enabling the Province to pass legislation for the conservation of oil and gas resources of the Province whether or not such legislation affects the rights of lease-holders or licence-holders from the Dominion.

Oil and Gas Conservation.—C. 15 provides for the constitution of a Board with the title of "The Petroleum and Natural Gas Conservation Board." The Board is to consist of not more than three persons appointed by Order in Council of whom one is to be designated as chairman. The remuneration of the members of the Board is to be fixed by Order in Council; the chairman first appointed is to hold office for one year, and all other appointees to the Board are to hold office during the pleasure of the Lieutenant-Governor in Council.

The Act applies to all producing oil and gas wells in the Province, and the Board is appointed for the purpose of effecting the conservation of the petroleum and natural gas resources of the Province.

Alberta Hail Insurance.—C. 16 sets up a Hail Board consisting of a chairman and four other members appointed by the Lieutenant-Governor

in Council, one of such members being nominated by the Association of Municipal Districts, to be known as the Alberta Hail Insurance Board.

By s. 10 the Board is directed, before June 1 in each year, to set up as hail insurance areas such areas as the Board deems expedient; to fix the maximum amount payable in respect to loss of any designated crop which amount may be different for different kinds of crops and for different hail insurance areas; to fix the rates to be paid applicants for insurance having regard to the prevailing risk of hail damage which may differ as between different areas; and to make an estimate of its expenditures for the current year and to apportion the estimated amount amongst the different hail insurance areas.

Old Age Pensions.—The effect of the amendment made by s. 2 of c. 21 is to place pensions to blind persons on the same footing as old age pensions with respect to the liability of the municipality, in which a pensioner lives to contribute 10 per cent. of the amount of the pension.

Credit Unions.—C. 22 provides for the incorporation of credit unions having for their objects the promotion of co-operative enterprise for their members, the creation of a service of credit for their members at legitimate rates of interest exclusively for provident and productive purposes and merchandising purposes.

Statute of Limitations.—C. 28 provides that certain actions and proceedings in respect of debts incurred or contracts made or entered into by a debtor where the whole of the original consideration arose prior to July 1, 1936, must be commenced before July 1, 1940.

Home Owners' Security.—C. 28 prohibits the bringing of any action founded on any mortgage executed before March 1, 1938, against a farm home owner, having for its object the foreclosure or sale of a farm home, and any such action now pending is stayed. "Farm home" means land elsewhere than in a city, town or village, consisting of not more than one quarter-section on which the home occupied by the owner thereof is situate; and "farm home owner" means the person who is the owner and in actual occupation of a farm home which is held by him subject to a mortgage.

The Act also prohibits the bringing of any action founded on any mortgage executed before March 1, 1938, against an urban home owner, having for its object the foreclosure or sale of an urban home, unless and until the plaintiff in the action has first deposited with the Clerk of the Court in which such action is to be commenced the sum of $2,000. "Urban home" means land in a city, town or village consisting of not more than four adjoining lots in one block; and "urban home owner" means the person who is the owner and in actual occupation of an urban home which is held by him subject to a mortgage. Any such actions now pending are stayed until the plaintiff makes a deposit with the Clerk of the Court of $2,000.

Garagemen's Lien.—S. 2 of c. 34 amends s. 3 of the principal Act by striking out the word "servicing" wherever it occurs and by providing that no garageman shall be entitled to a lien under this Act for the price of gas, oil or grease.

Public Service.—C. 41 includes in the Public Service Act a provision for the constitution of a Joint Council to be known as "The Alberta Civil Service Joint Council," consisting of six members, of whom half are appointed by the Lieutenant-Governor in Council and the other half are

appointed by the Civil Service Association of Alberta, with such functions as may be prescribed by Order in Council.

Dairymen.—The amendments made by c. 49 provide for the licensing of concentrated milk plants and for the appointment by the Minister of advisory boards consisting of a chairman and not more than two other members, when requested so to do by the Minister, to inquire into any application for the granting or renewal of any licence in respect of a creamery or a cheese factory.

Hours of Work.—S. 2 of c. 54 defines " overtime " as any time worked during one day in excess of nine hours in the case of a female employee and ten hours in the case of a male employee and time worked during one week in excess of 48 hours in the case of a female and 54 hours in the case of a male.

Department of Trade and Industry.—The amendment made by s. 2 of c. 55 adds to the Act a new provision which empowers the Minister, or any official of his department designated by him, to require the furnishing of statistical information as to trades in the Province by persons engaged therein ; and makes it an offence for any person engaged in any trade who fails to comply with a written demand by the Minister for such information after such person has or is able to procure it after thirty days from the receipt by such person of the demand, such offence being punishable by a fine of $10 per day for each day during which the default continues ; and in any prosecution the onus of showing that the defendant did not have or could not procure any information is upon the defendant. It is further provided that such information shall be used for official and statistical purposes only, and any unauthorized disclosure thereof is prohibited under penalty.

Bread Act.—The amendment made by s. 2 of c. 63 extends the definition of a bake shop to places at which bakery products are made in addition to bread, and defines bakery products as meaning cakes, pastries, pies and other products ordinarily made in a bake shop.

Poliomyelitis Sufferers.—C. 70 empowers the Minister of Health, with the approval of the Lieutenant-Governor in Council, to enter into agreements with the Board of any hospital which is equipped and has proper facilities for the treatment of persons who have been afflicted by poliomyelitis (infantile paralysis), and who are suffering from the consequences thereof, providing for the reception, hospitalization, care and treatment in such hospital of such persons upon such terms and conditions as may be prescribed by the agreement.

Bureau of Relief and Public Welfare.—S. 2 of c. 71 makes provision for the appointment of committees of three for the purpose of making a thorough investigation into relief problems presented to the Agricultural Committee on Relief and making recommendations for remedial changes, and for the purpose of arranging for the acquisition and distribution of supplies of fruit, vegetables and clothing for relief purposes, and provides the payment of subsistence and expenses to members of such committees, including such of them as may be members of the Legislative Assembly.

3. BRITISH COLUMBIA.

4. MANITOBA.

[It is hoped to publish a summary in the next Review.]

5. NEW BRUNSWICK.

Acts passed—Public 71 ; Local and Private 49.

Elections.—The Elections Act, c. 4, of the Revised Statutes, 1927, and all Acts in amendment thereof, are repealed by c. 5, which now contains the whole law on the subject. It is at once supplemented by the following Act making arrangements for an election to be held in 1938.

Co-operative Tax.—C. 16 of the Revised Statutes, 1927, and all Acts in amendment thereof, are repealed by c. 18, which now contains the whole law on the subject.

Landlord and Tenant.—C. 169 of the Revised Statutes, 1927, and the amending Acts of 1928 and 1929, are repealed by c. 42, which embodies the law in accordance with the Conference of Commissioners on the Uniformity of Legislation in Canada with the exception of s. 35 respecting property liable to distress.

Co-operative Associations.—C. 67 establishes the machinery for the formation of co-operative associations " to buy, sell, barter, take on consignment, pack, process, manufacture, dry, preserve, can, grade, store, harvest, handle, utilize or deal in livestock and livestock produce, eggs, poultry, seeds, feeds, fertilizer and all kinds of farm and forest products, fish and products of the sea " and to provide the necessary establishments to carry on this business.

Labour.—C. 68 contains provisions relating to the rights of employers and employees to organize, the investigation and conciliation of disputes, regulation of wages and working conditions and lock-outs and strikes.

Quieting of Titles.—Any person claiming to be the owner of any land shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared, whether he has the legal estate or not and whether his title is or is not subject to any charge or incumbrance. The procedure for doing so is enacted in c. 69.

6. NOVA SCOTIA.

[*Contributed by* F. F. MATHERS, ESQ., *Deputy Attorney-General.*]

Acts passed—90 ; Public—57 ; Local—11 ; Private—22.

Marketing of Natural Products.—The Natural Products (Nova Scotia) Act, c. 5, makes provision for the regulation and control of the marketing of natural products within Nova Scotia, including the grading, packaging, inspection and sale thereof.

Milk Control.—C. 6, " An Act to Regulate the Distribution and Sale of Fluid Milk for Human Consumption," provides for the appointment of a Dairy Arbitration Commission with power to arbitrate, adjust and settle disputes between producers, consumers, processors, distributors and transporters of milk, to prescribe standards of price, to protect milk producers from certain unfair practices by milk distributors and vice versa.

Money-lenders.—The purpose of c. 7, " The Nova Scotia Money-lenders Act," is to protect a person borrowing from a money-lender from being charged an excessive rate of interest by adding charges for commission, expenses, inquiries or fines. The Province has no power to deal with the matter of interest as such, as that subject is within the exclusive power of the Parliament of Canada, which has already legis-

lated on it, but a question has arisen as to whether or not the Parliament of Canada can deal with charges that the money-lender adds to the loan, and the Nova Scotia Money-lenders Act is to supplement the legislation of the Parliament of Canada above referred to.

Instalment Payment Contracts.—C. 8, the Instalment Payment Contracts Act, provides for the licensing of persons, firms or corporations who, in the ordinary course of their business, sell or let to hire goods, wares or merchandise by a conditional sale, which includes any contract for the hiring of goods under which the hirer shall become, or have the option of becoming, the owner of the goods upon compliance with the terms of the contract. The widest power to suspend or cancel licences is conferred by this Act.

Private Investment Holding Companies.—C. 9 is for the purpose of facilitating the incorporation under the Nova Scotia Companies Act of any company whose objects as set forth in its memorandum of association are, broadly, the holding by way of investment of any real or personal property. The objects set forth in the memorandum of association may only be those set forth in this Act.

Gold Clauses.—C. 10 is similar to legislation on this subject enacted by Canada and by some of the other Provinces. It provides for the discharge of securities, both private and public, in present legal tender.

Illegitimate Children.—C. 20 amends the Illegitimate Children's Act by making provision for cases where it appears in proceedings for a filiation order that any one of two or more may be the father of the illegitimate child. A filiation order may be made against all of them, and the amount to be paid by each of them fixed by the justice.

7. ONTARIO.

[*Contributed by* K. G. Morden, Esq.]

Second Session—1937.

Acts passed—3 : Public—3 ; Private—0.

Succession Duties.—The Succession Duty Act, 1934, is amended (c. 1) by providing for a method of valuing securities; penalties for non-disclosure of assets ; prohibiting, without the consent of the Treasurer, the opening of safety deposit boxes standing in the name of the deceased or of any member of his family ; empowering the Treasurer to appoint a Commissioner, with wide powers to summon and examine witnesses, to make any examination or investigation in order to assist the Treasurer in ascertaining the duty payable ; providing for an appeal to the Supreme Court from the Treasurer's statement of duty, interest or penalties following the Commissioner's report ; empowering the Treasurer to appoint special investigators with wide powers of summoning and examining witnesses ; and empowering the Treasurer to reopen, revoke, revise, recall previous decisions, settlements, valuations, etc. The Judicature Act is amended (c. 2) by the addition of a section providing that no action and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy shall lie or be instituted against the Treasurer or his representative or appointee for anything done or purported to be done or omitted in connexion with the administration of the Succession Duty Act.

1938.

Acts passed—76 : Public—46 ; Private—30.

Investigation of Cancer Remedies.—The Lieutenant-Governor in Council is empowered by the Cancer Remedy Act (c. 4) to appoint a Commission, which shall be a body corporate and hold office during pleasure, the objects of which shall be to investigate, approve, disapprove, encourage or report on any substance or method of treatment which is believed to be, or likely to be, or is advertised, held out to be or used as a remedy for cancer. The Commission may employ officers, clerks and servants and engage the services of experts, and may, with the approval of the Lieutenant-Governor in Council, enter into agreements with any university, medical association, hospital or other body for the purpose of carrying out its objects. The Commission may require any person who advertises, offers for sale, sells or administers any substance or method of treatment as a remedy for cancer to submit to the Commission samples of any substance used in such treatment, together with the formula of such substance ; and the Commission shall investigate such substance or method of treatment and make a determination or finding as to its merit as a remedy for cancer. No action for defamation or otherwise shall lie against the Commission or its servants or agents in respect of any act or omission in carrying out the provisions of the Act.

Conditional Sales.—The Conditional Sales Act is amended (c. 5) by requiring the filing of renewal statements at the expiration of three years from the date of filing the copy of the conditional sale agreement, and in default of filing such renewal statement the conditional sale agreement shall cease to be valid as against creditors of the purchaser and as against subsequent purchasers without notice in good faith and for valuable consideration. The amending Act further provides a form of Notice of Conditional Sale Agreement to be registered in the Registry or Land Titles Offices when the goods sold have become affixed to the land (see *Hoppe* v. *Manners*, 66 O.L.R. 587, [1931] 2 D.L.R. 253). Where goods have become affixed to the land against which the mortgage is registered, payments or advances made upon such mortgage before the registration of the notice of the conditional sale agreement shall have priority over the rights of the vendor.

Judicature Act.—The Judicature Amendment Act (c. 18) provides that in the absence from the County of York of the Chief Justice of Ontario, or if he is unable or unwilling to act, his powers shall be exercised and duties performed by the senior justice of appeal. By the same Act, the management and investment of moneys in court is transferred from a committee composed of Supreme Court judges to a Finance Committee to be appointed by the Lieutenant-Governor in Council.

Loss of Expectation of Life.—By the Trustee Amendment Act (c. 44), s. 37 of the Trustee Act (which corresponds with the English Law Reform (Miscellaneous Provisions) Act, 1934, s. 1) is amended by providing that " no damages shall be allowed for the death or for the loss of expectation of life, but this proviso shall not be in derogation of any rights conferred by the Fatal Accidents Act." The decision in *Rose* v. *Ford*, [1937] A.C. 826, was followed in Ontario in *Major* v. *Bruer*, [1938] O.R. 1, [1937] 4 D.L.R. 760. The present amendment abolishes the right of the personal representative of a deceased to damages for loss of expectation of life of such deceased.

8. PRINCE EDWARD ISLAND.

[*Contributed by* W. E. Bentley, Esq., K.C.]

Acts passed—34: Public—26; Private—8.

Fatal Accidents.—Lord Campbell's Act (9 & 10 Vict. c. 93) had been enacted in the Province in 1847. By c. 2 that Act is repealed and a new Act substituted called the Fatal Accidents Act. Where the death of a person has been caused by such wrongful act, neglect or default as, if death had not ensued, would have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the person injured. The action may be brought by the executor or administrator for the benefit of the wife, husband, parent and child of the deceased, the word "parent" having been extended in meaning to include a person who adopted a child and a person standing *in loco parentis* to the deceased, and the word "child" extended in meaning correspondingly. Where no action is brought by the executor or administrator within six months after the death, or where there is no executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by an executor or administrator. Damages awarded may include reasonable funeral expenses.

Contributory Negligence.—C. 5 is an enactment of the Model or Uniform Contributory Negligence Act prepared by the Commissioners on Uniform Provincial Legislation, which has already been adopted in several Provinces. It modifies the common law rule that where from the concurring negligence of two parties one suffers all the injury he must bear the whole loss, although the other party may also have been negligent, and declares that the liability to make good the loss shall be in proportion to the degree in which each person was at fault. The Act conforms closely to the wording of the Maritime Conventions Act, 1911. Similar Acts have been adopted in British Columbia, Alberta, New Brunswick and Nova Scotia.

Co-operative Associations.—C. 6 provides an expeditious and inexpensive method of incorporation of any ten or more persons who desire to form an incorporated association for the purpose of producing, purchasing or selling live-stock, farm or fishery products on a co-operative plan or for establishing and operating on such plan any business for procuring and selling supplies or rendering services of pecuniary value to producers and consumers or purchasing or acquiring on the same plan real property to be used as a club room or rest room or for entertainments and gatherings of a public nature. The Act requires that all goods purchased by an association shall be paid for upon delivery unless bought from another co-operative association or from a company having objects wholly or in part similar to those of co-operative associations, and that sales to shareholders, patrons or customers must be for cash without any credit being given; but retail associations, with paid-up capital at least $5,000, may become exempt from such restrictions. The Act provides for supervision of the affairs of associations and requires annual reports to the Provincial Department of Agriculture.

Dower.—By c. 8 anyone legally or equitably seised in fee simple of any land which is subject to the expectancy of dower of a married woman may apply to the Court of Chancery by petition in a summary way for an order to bar such dower, and the court, after notice to the married

woman and any others interested, may fix the present value of the dower expectancy and may bar the expectancy upon payment of the amount to the married woman or into court for her.

Income-tax.—C. 10 is a revision of provincial statutes imposing an income-tax. Effect is given to an agreement made between the Provincial Treasurer and the Minister of National Revenue of Canada under which the latter and the Commissioner of Income-tax appointed by the Governor-General in Council pursuant to the provisions of the Department of National Revenue Act (Canada) may collect provincial as well as federal income-taxes.

Insurance.—By c. 11 it is declared to be an offence for any licensed life insurance agent to induce, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid-up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer. It is also an offence for such agent to make a false or misleading statement or representation in the solicitation or negotiation of insurance, or to coerce or propose to coerce a prospective buyer of life insurance through the influence of a business or professional relationship or otherwise, to give preference in respect to the placing of life insurance which would not otherwise be given in the effecting of a life insurance contract.

Lobster Dealers.—By c. 14 persons engaged in buying or selling live lobsters known as " canners " for shipment alive out of the Province are required to be licensed before commencing business and to pay a licence fee of $500.

Marriage.—By c. 15 any question or dispute as to the eligibility of either of the parties to obtain a marriage licence may be decided by the Supreme Court, either in a summary manner or by the direction of an issue, the application and the hearings to be *in camera*.

Mechanics' Liens.—C. 16 is a revision and consolidation of former Acts on the subject.

Milk and Cream Producers.—C. 17 authorizes the appointment of a Board with power to grant licences to persons engaged in producing and selling milk and cream for retail sale in its fluid state, to fix prices, settle disputes between producers, consumers, processors, distributors and transporters, and to prescribe regulations, subject to the approval of the Lieutenant-Governor in Council.

Seed Grain Advances.—Under c. 22 a person occupying and cultivating farm land for three years may execute a lien and charge upon the land for the price of seed grain purchased, the security, if given to the Provincial Treasurer, to constitute a first charge upon the land and to have priority to all mortgages or other incumbrances and to all other estates and interest in the land, except school taxes ; and if given to a mortgagee or unpaid vendor of the land, the security shall constitute in his favour a lien and charge upon the land *pari passu* with his existing mortgage or vendor's lien.

Tourists.—C. 25 authorizes the making of regulations for the licensing and control of hotels, cabins and resorts which provide accommodations for visiting tourists.

Warehousemen's Liens.—C. 26 gives warehousemen a lien on goods deposited for storage and contains provision regarding notices and conditions of sale upon non-payment of storage charges. The Act is uniform with those in effect in seven of the nine Provinces of Canada.

9. QUEBEC.

[*Contributed by the* Hon. Mr. Justice Fabre Surveyer.]

Public Acts—103; Private Acts—31.

Farm Credit.—C. 2 declares in its preamble that it is of the greatest importance that the Province of Quebec have an essentially agricultural character, and to this end increases farm credit from $15,000,000 to $25,000,000. The borrowing power of the Farm Credit Bureau is increased accordingly.

Farm Credit Bureau.—By c. 3, the Provincial Treasurer, on authorization by the Cabinet subject to the recommendation of and to the conditions determined by the Minister of Agriculture, is empowered to advance out of the Consolidated Revenue Fund an additional sum of $2,000,000 to the Farm Credit Bureau.

Old Age Pensions.—C. 4 provides that the appeal under the Old Age Pensions Act from any decision of the Commission refusing an application for a pension is concerned with the right to a pension, and not with the amount of the pension, the latter matter being under the exclusive jurisdiction of the Commission.

Youth Aid.—The preamble to c. 5 sets forth that during the past few years the economic depression has particularly affected youth. Accordingly the Government have deemed it to be expedient to come to their assistance in the fullest possible measure by facilitating the opening up of new careers and contributing to the professional training and orientation for youth in order to enable youth to occupy its appropriate place in the agricultural, industrial and commercial fields of the Province. For this purpose the Act authorises the Minister of Municipal Affairs to enter into agreements necessary to facilitate the establishing of youth. For this purpose the sum of $1,000,000 may be expended out of the Consolidated Revenue Fund, and loans may be authorized by the Cabinet for a period of thirty years at 4 per cent. per annum; in addition, the Act ratifies the agreement of September 17, 1937, between the Governments of Canada and of the Province of Quebec.

Administrative Services.—C. 21 enables the Minister of Public Works, if authorized by the Cabinet, to acquire and erect buildings for the use of Governmental administrative services. Nevertheless, the total expenditure must not exceed $1,500,000 and must be limited to $150,000 per building.

Interpretation of Statutes.—C. 22, definitive reports from the juridical committee for the revision of laws being considered necessary, repeals the Act Respecting the Interpretation of Laws (1 Geo. VI, c. 13) enacting that the French text prevailed wherever there was a difference between the French and English text of a statute or of the Revised Statutes and in any difference between the French and English texts of the Civil Code, the Code of Civil Procedure, etc., and the provisions amended or repealed by the above Act are again in force.

Elections.—C. 24, amending the Election Act in various ways, makes regulations regarding the electoral lists for cities other than Quebec and Montreal, irrespective of population, and regulates the delays in the matter of the election of members to the Legislative Assembly.

Attorney-General's Department.—C. 25 (amending several Acts) reserves the professional services and entire time of the Deputy Attorney-General exclusively for the Crown, and provides for a remuneration not exceeding

$9,000 for these services, which include the power to represent the Attorney-General before the courts.

Public Service Commission.—C. 26 extends the provisions of the Public Service Commission Act, until 1939, in regard to the replacement of the two members of the Commission by the Cabinet, notwithstanding any provisions of any other law to the contrary, and in regard to the repeal of the jurisdiction of the Commission in expropriation matters. It grants the Cabinet power to attribute to the Electricity Board all or part of the powers possessed by the Commission respecting the distribution, production and sale of electricity, notwithstanding any general law or special Act to the contrary.

Treasury Board.—By c. 27, the composition of the Treasury Board is decreed to be the Prime Minister, the Provincial Treasurer, the Minister of Lands and Forests and the Minister of Municipal Affairs, the Prime Minister being the chairman of the Board.

Succession Duties.—C. 29, in the matter of the tax upon property transmitted owing to death, determines the value of certain designated securities, or rents and endowments and all other rights; provides for the reduction of claims by the collector and names the conditions under which the Provincial Treasurer may exact payment in securities free of succession duties. It also repeals the exemption from taxation in the case of an estate not exceeding $25,000 part of the property of which is situated outside the Province, and specifies the exemption allowed. The necessary formalities prior to the opening of safes, etc., are detailed and sanctions provided for their violation.

Beneficiaries Seizin.—By c. 30, the Beneficiaries Seizin Act (R.S. 1925, c. 30) and amendments are repealed. This Act compelled an heir or legatee domiciled outside the Province to be sent into possession of his share by the courts. The repeal came into force on March 18, 1938.

Alcoholic Liquor.—C. 32 empowers the Cabinet, on the recommendation of the committee for revision of taxation and of the manager of the Commission, to alter or abolish certain designated duties under the Alcoholic Liquor Act (R.S. 1925, c. 37).

Chamber of Agriculture.—C. 35 creates, for the purpose of research and consultation in regard to agricultural matters, a Chamber of Agriculture, composed of twelve members, seven of whom are appointed by the Cabinet, the remaining five being named in the Act. The Chamber is empowered to advise the Minister of Agriculture, to arbitrate disputes between agricultural organizations, etc. Moreover, the Act repeals the provisions of the Council of Agriculture Act (R.S. 1925, c. 52) relating to the formalities, powers and duties of the Council as well as the provisions relating to the organization of a permanent committee on exhibitions, but permits all regulations adopted under these provisions to remain in force. The Minister of Agriculture is charged with the carrying out of this Act, under the direction of the Cabinet.

Colonization.—By c. 41, the powers of the Cabinet are increased with regard to the acquisition of new lands for colonization. This Act came into force on April 12, 1938.

Mining.—By c. 44, a person unjustly in possession of land covered by a mining claim or a development licence may be ousted therefrom by the Superior Court on petition of the holder of the claim or of the Minister of Mines if the latter is authorized by the Cabinet to take such proceedings.

Game.—C. 46 enacts more stringent sanctions for violation of the pro-

hibitions in regard to certain designated game, and c. 47 empowers the Cabinet to adopt the measures necessary for the conservation of any other species of animal.

Highway System.—C. 51 provides for the rebuilding and the construction of a highway system under the supervision of the Minister of Roads and the Minister of Public Works, and for this purpose the Government is authorized to compile and carry out a comprehensive scheme and expend a sum up to $50,000,000; this capital expenditure may be paid by the Provincial Treasurer (if authorized by the Cabinet) by means of loans for a period not exceeding thirty years and at a yearly rate of interest up to 4 per cent. This Act came into force on April 12, 1938.

Collective Labour Agreements.—By c. 53, the title of the Act Respecting Workmen's Wages (1 Geo. VI, c. 49) is changed to that of the Collective Labour Agreements Act; the Cabinet is authorized to give retroactive effect, not exceeding four months, to the collective agreement and the decree, and its amendment or revocation of the decree is subject to no formalities. The Act also declares that there must be an express stipulation in order to render any decree applicable to the Government; and no decree applies in the case of work done by a third party for the Government, under a contract providing for a scale of minimum wages. Sanctions are given for violations of the Act.

Radio Broadcasting.—C. 57 empowers the Minister of Municipal Affairs to carry out the Radio Broadcasting Act (19 Geo. V, c. 31).

Cities and Towns.—C. 62 enables every city or town municipality (irrespective of population) which has been incorporated by a special Act to abandon its charter and obtain letters patent from the Cabinet, and decrees the effect of the letters patent. Among various provisions, the Act regulates the division of the municipality into wards, the suspension of sales, prescription of suits, etc.

Police Force.—By c. 76, a police force is constituted and its duties, conditions of admission and sundry other matters are specified; each officer is specially attached to one of the four following branches: the judicial, highway or liquor police, or the constabulary force, without restricting his powers and privileges as a constable and police officer endowed by the written or by the common law. The direction of the police force is under the Attorney-General, but the Cabinet has power to make enactments on certain points. This Act repeals the provisions for the constitution of a police force under the Police and Good Order Act. It was sanctioned on April 8, 1938, and came into force thirty days subsequent to that date.

Cinema Censors' Board.—C. 77 authorizes the creation of a Board of Cinema Censors and the determination of their functions, duties and remuneration by the Cabinet. The Cabinet may also appoint the necessary secretaries, officers and other employees. The date of coming into force of this Act was at the discretion of the Cabinet by proclamation.

Insane Persons.—By c. 80, the Cabinet may appoint one or more persons to act as curator *ex officio* of non-interdicted insane persons in insane asylums, each curator possessing all the powers of a tutor (guardian) over the person and property of a minor subject to instructions by the Attorney-General.

Seigniorial Rents.—In order to expedite the abolition of seigniorial rents, measures are enacted by c. 86 for the determination of their real value, and for this purpose the Cabinet may expend a sum up to $25,000

out of the Consolidated Revenue Fund and may appoint special officers, members of the Legislative Assembly suffering no disability on accepting this office.

Workmen's Compensation.—C. 88 empowers the Cabinet to establish a medical board composed of three physicians for the revision of evidence in accident cases before the Commission ; under the Act, the conclusions of the majority of the members constitute the medical evidence and bind the Commission. In addition, the Cabinet may appoint an officer for the administration of the Accident Fund.

Release of Debtors.—C. 90 provides that the debtor is released from any debt or balance of debt guaranteed by privilege or hypothec (mortgage) upon a real estate, when the latter has been sold at law or in a sale with like effect and adjudged to the creditor, on condition that the property, at the time of the adjudication, had a value equal to the purchaser's claim, in addition to any claims having priority ; the release is similarly accomplished if the purchaser by resale or other transaction realizes the value of his claim. Moreover, where the value of the claim is not realized, the release may be obtained on payment of the difference to the creditor. And the Act provides that sureties and warrantors are released subject to the same conditions, and that the property is deemed adjudicated to the creditor under certain conditions. Prescriptive periods and the application of the Act are given.

Unincorporated Associations.—Under c. 96, any group of persons, associated for the carrying on of any industrial, commercial or professional matter, not possessing a collective civil personality and not being a partnership, may be summoned under its name or that of any of its officers, and the judgments rendered in the cause may be executed against all the moveable or immoveable property of the group.

Alimentary Pension.—C. 98 enables the wife common as to property, on her husband's inability or refusal to act, to exercise alone or in her name an action for an alimentary pension with judicial authorization.

Privileges and Hypothecs.—C. 98 also enacts that registered privileges and hypothecs (mortgages) become extinct thirty years from the date of the Act constituting them, giving them effect or renewing them, unless there has been a renewal of the registration before the expiration of the delay ; however, registration of an act of acknowledgment of indebtedness avails.

Discovery.—By c. 100, the president, manager, treasurer, secretary or, on the authorization of a judge, any other officer or employee may be examined after plea when the opposite party is a corporation ; and the provisions regarding an examination before plea are only applicable to actions brought before the Superior Court.

10. SASKATCHEWAN.

[*Contributed by* J. P. Runciman, Esq., *Legislative Counsel.*]

Acts passed : Public—92 ; Private—4.

Revision of the Statutes.—The Revised Statutes Act (No. 2) authorizes the appointment of two or more commissioners to revise and consolidate the statutes. This work is undertaken every ten years. The new edition will probably be published early in 1941.

Interpretation.—S. 37 of the Interpretation Act provides that the repeal of an Act or part of an Act shall not revive any Act or provision

of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein. An amendment (No. 3) to the Act applies the same rule to regulations, orders, rules, rules of court, tariffs of costs or fees, forms, by-laws and resolutions made or passed pursuant to the provisions of any Act.

Provincial Tax Commission.—This new measure (No. 10) centralizes the collection of taxes and other revenue receivable by the Crown. Various revenue Acts, hitherto administered by different departments of the Government, are placed under the administration of the commission.

Mutual Medical and Hospital Benefit Associations.—No. 24 (a new measure) authorizes the incorporation of mutual medical benefit associations, mutual hospital benefit associations and mutual medical and hospital benefit associations, and empowers an association to make agreements with one or more duly qualified medical practitioners, dentists and nurses, and with a hospital or hospitals, maternity or nursing homes, for specified services to the members of the association and their dependants. The association is also authorized to assess, levy and collect from its members sums required for the performance of agreements entered into by it.

Closing-out Sales.—No. 44 (another new measure) applies only to a municipality the council of which has passed a by-law declaring that the Act shall apply in the municipality. The Act prohibits the advertisement, carrying on or conducting of a closing-out sale unless under the authority of a municipal licence. The expression "closing-out sale" is defined as any sale or intended sale at retail of goods, wares or merchandise: (*a*) which is in any way represented, held out, advertised or described by any of the terms "bankrupt," "insolvent," "assignee's," "adjuster's," "trustee's," "executor's," "administrator's," "receiver's," "liquidation," "wholesaler's," "jobber's," "manufacturer's," "moving out," "selling out," "closing out," "closing stock," "fire," "smoke," "water damage," "landlord's," "lease expired," "creditors'" or "forced," or by any similar words or expressions; or (*b*) wherein it is in any way represented, held out or advertised that the goods, wares or merchandise are the property of or have been acquired or purchased from or are being sold by or on behalf of any bankrupt, insolvent person, assignee, adjuster, trustee, executor, administrator, receiver, wholesaler, jobber or manufacturer, or are the property of or have been acquired or purchased from or are being sold by or on behalf of any other retailer; or (*c*) wherein it is in any way represented, held out or advertised that the goods, wares or merchandise have been damaged by fire, smoke, water or any other injurious agent, or are offered or will be offered for sale by reason of any action on the part of any landlord or creditor, or because of the expiry of any lease, or because the vendor thereof or any agent or principal of the vendor is either discontinuing business or changing his place of business, or has done so, or intends to do so, or because the vendor or any agent or principal of the vendor is in any way forced to offer the goods, wares or merchandise for sale.

Control of Tillage Operations.—The Soil Drifting Control Act (No. 60) (also a new measure) authorizes rural municipal councils, upon petition of the ratepayers, to pass by-laws for the regulation and control of tillage practices which may cause rapid soil deterioration by wind erosion. A by-law may include provisions requiring adoption of the practice of strip farming, the growing of cover crops, the providing of trash cover

or the spreading of straw or other refuse on cultivated lands, prohibiting the burning of stubble, prohibiting the cutting or requiring the planting of trees, requiring, prohibiting or governing the use of specified kinds of machinery, governing tillage operations and regulating or prohibiting the growing of crops in specified areas.

Forage Crop Seed Production.—In enacting this legislation (No. 61) the Legislature had in mind chiefly the production of alfalfa crops. The Lieutenant-Governor in Council is authorized to designate an area or areas in which specified varieties and kinds of seed of forage crops may be sown and in which seeds of other varieties and kinds shall not be sown, and power is given to the Minister of Agriculture to issue and enforce orders requiring destruction of any forage crop of a prohibited variety or kind within any area so designated.

Freedom of Trade Union Association.—No. 87 recognizes the right of employees to form themselves into a trade union or to join a trade union and to bargain collectively with their employer or employers. Employers must not restrain their employees from exercising their rights under the Act, and intimidation by employers and employees is prohibited.

Consolidations.—The following Acts were consolidated and revised, namely: the Legislative Assembly Act (No. 4), the Treasury Department Act (No. 8), the Succession Duty Act (No. 11), the Fuel Petroleum Products Act (No. 13), the Land Titles Act (No. 20), the Co-operative Marketing Associations Act (No. 55), the Dairy Products Act (No. 58), the Anatomy Act (No. 65) and the Game Act (No. 74).

11. NEWFOUNDLAND.

[*Contributed by* G. B. Summers, *Secretary for Justice.*]

During the calendar year fifty-three Acts were passed. Many of these Acts make minor amendments or involve administrative matters of merely local interest and those only hereinafter referred to seem likely to be of any general interest.

Italian Exchange Insurance.—Acts Nos. 2, 11, 27 and 39 extend, both as to time of operation and as to the sums of money dealt with, the Act No. 19 of 1937 under which the Government has given power to insure shippers of codfish to Italy against abnormal or quasi-political risks in order to maintain the trade in codfish with that country.

Herring Industry.—No. 4 is an Act to confirm an agreement between the Government and Santa Cruz Oil Corporation. It is designed to assist the establishment of an industry for processing herring into oil and meal.

No. 31 is to some extent an adjunct to the Act No. 4 and establishes a licensing system in relation to the manufacture of oil and meal from herring and caplin.

Customs and Excise.—No. 9 consolidates the law relating to the customs and excise and supersedes all previous Acts. It was the subject of a very extended consideration by the customs and law officers and is considered to bring the customs law to a high state of perfection.

Airport.—No. 19 enables the Government to constitute the area round an airport a local administration area under the Act No. 6 of 1937 to be managed by the Commissioner for Public Utilities instead of by a local council. The Act is designed to protect the surroundings of the new Newfoundland airport.

Foreign Judgments.—No. 20 consolidates the law in relation to the enforcement of Empire and foreign judgments.

Carriage by Air.—Nos. 22 and 52 give effect to the Convention of Warsaw, 1929, on the subject of international carriage by air.

Shipping.—No. 32 is designed to facilitate the operations of certain promoters who hope to establish a free port at Mortier Bay.

No. 38 re-establishes the old system abandoned in 1934 of granting bounties on the construction of wooden fishing or trading vessels.

Mining.—No. 41 is designed to facilitate the operations of and to secure certain rights to a company which has undertaken extensive explorations in Labrador.

Wireless Telegraphy.—No. 42 confirms an agreement between the Government and Canadian Marconi Company for the establishment of wireless telephone communication with the North American continent.

Fisheries.—No. 44 prohibits the export of dried codfish from Newfoundland otherwise than with the permission of the Newfoundland Fisheries Board.

Forestry.—No. 46 is designed to protect the interests of loggers employed in logging camps.

No. 47 provides standards of accommodation in logging camps and deals with questions of sanitation and medical attendance therein.

Statistics.—The provisions of No. 48 come under the jurisdiction of the Commissioner for Public Health and Welfare and provide power for the collection of industrial statistics.

Customs.—No. 51 is an Act for granting to His Majesty certain duties of customs and excise, and consolidates the principal Act and a variety of amending Acts relating to the revenue and customs tariff.

Paper Mills.—No. 53 confirms an agreement between the Government and Bowater's Newfoundland Pulp and Paper Mills, Limited, in relation to extensions to the paper mills at Corner Brook and in relation to the export of unmanufactured timber.

12. BERMUDA.

Acts passed—35.

Pensions.—No. 16 repeals previous Superannuation Acts and sets forth the provisions for pensions for all branches of the Civil Service.

Coroners.—The Coroners Act of 1928 is repealed by No. 25 and provision made for the appointment of two coroners and the holding of inquests.

III. AUSTRALIA.

1. COMMONWEALTH OF AUSTRALIA.

[*Contributed by* Sir George Knowles, C.B.E., M.A., LL.M., *Solicitor-General and Parliamentary Draftsman.*]

Acts passed—78.

Several measures affecting the social and economic life of the Australian people were passed during the year. Of these, the Acts in relation to national insurance are of particular importance. A plan for the stabilization of the Australian wheat industry necessitated the enactment of certain complementary Commonwealth legislation—other legislation in relation to the scheme being enacted by the States. An Act was passed to implement the Commonwealth's participation in the England to Australia portion of the Empire Air Mail Scheme. Bounty Acts also form an important part in the Commonwealth legislative programme for 1938.

Air Mail.—The Empire Air Service (England to Australia) Act (No. 31) ratifies an Agreement between the United Kingdom and Commonwealth Governments and authorizes the execution of an agreement between the Qantas Empire Airways Limited and the Commonwealth in relation to the Empire Air Mail Scheme. The Agreement with the United Kingdom sets out the conditions subject to which the Commonwealth is participating in the Scheme and also the financial arrangements between the two Governments for the period of the Agreement, namely, fifteen years. The Agreement with the Company provides for the establishment, operation and maintenance of an Air Service between Singapore and Sydney for the consideration and subject to the conditions set out in the Agreement. The Commonwealth is to pay to the Company a minimum annual subsidy of £40,000 sterling. This amount may be increased to not more than £50,000 where the weight of Australian mail exceeds 40,000 pounds in any year. In addition, the Commonwealth will pay the Company in respect of mails an annual payment varying according to the weight of mail carried, the minimum sum being £32,000 and the maximum sum being £52,000 per annum. The Company is to maintain a service in accordance with the Agreement with a frequency of not less than three trips per week.

Assistance to States.—Grants were made to the States for the financial year 1938–9 both for unspecified and for special purposes. The States Grants Act (No. 43) provides for financial assistance to the extent of £1,040,000 for South Australia, £570,000 for Western Australia and £410,000 for Tasmania. The grants for special purposes are referred to under Primary Producers' Assistance—(iii) Fertilizer Subsidies and Wheat Industry.

Bounties.—A bounty on citrus fruits exported to destinations other than New Zealand during the years 1938, 1939 and 1940 is provided for in the Citrus Fruits Bounty Act (No. 22). The term " citrus fruits " is defined as meaning oranges, lemons, grapefruit and mandarins. The rates of bounty on these fruits are set out in the schedule to the Act. These rates are to be reduced from time to time, the rate being two shillings per case or box of oranges for the year 1938 ; one shilling and sixpence for the year 1939 and one shilling for the year 1940. The payment of the bounty is restricted to citrus fruits in respect of which export permits have been issued under the regulations relating to the

export of those fruits. Bounty will ordinarily be payable to the grower but special provision is made for payment where the fruits are marketed through approved co-operative organizations and agents. Bounty assistance is also provided in respect of the motor industry and the newsprinting paper industry by the Motor Industry Bounty Act (No. 54) and the Newsprinting Paper Bounty Act (No. 64), respectively. The first-mentioned Act grants a bounty on radiator assemblies for a period of two years from the commencement of the Act. The bounty, which is not to exceed £35,000 in any one year, will be payable to the manufacturers of radiator assembly at the rate of 10s. for each assembly intended for use as original equipment. The bounty is applicable to radiator assembly manufactured in Australia and containing 95 per cent. of Australian material. If a smaller percentage is used, the rate of bounty will be proportionately decreased. The newsprinting paper bounty will be payable to the manufacturer of certain paper which, during a period of four years from the date of the commencement of the Act, has been manufactured in accordance with the prescribed conditions, in a factory, from pulp produced from timber. Bounty, which is not to exceed £108,000 in any one financial year, will not be payable on paper manufactured in any month, if, in respect of that month, the imported cost per ton is £18 11s. 3*d*. or more. Where, in respect of any month the imported cost per ton is less than that sum, bounty will be payable, on paper manufactured in that month, at a rate per ton equal to three-fourths of the amount by which the imported cost per ton is less than that sum. This provision is subject to the proviso that (*a*) if a duty of Customs (other than primage duty) is charged on imported paper admissible under the British Preferential Tariff, the rate of bounty is to be reduced forthwith by an amount equivalent to the rate of the duty; and (*b*) the rate of bounty is not to exceed £4 per ton. Bounty will not be payable where less than 60 per cent. of the pulp used in the manufacture of the paper was produced in Australia from Australian-grown timber and less than 40 per cent. by weight of the pulp so used is mechanical pulp so produced, but the Minister may authorize the use of less than 60 per cent. if he is satisfied that the use of a smaller percentage is warranted. The Raw Cotton Bounty Act (No. 6) is an amending Act which removes the reduction under the Financial Emergency Act, 1931, of the bounty on raw cotton. The increased rate will operate in respect of raw cotton produced after December 31, 1937.

Census and Statistics.—The Census and Statistics Act (No. 17) authorizes the Minister to approve of forms for the collection of statistics in relation to factories, mines and productive industries. Previously it was necessary for these forms to be prescribed by regulations.

Customs and Excise.—The Customs Tariff (Act No. 3) is a general amending measure which amends the Customs Tariff, 1933–6. The items affected relate to ale, spirits and beverages; tobacco and manufactures thereof; agricultural products and groceries; textiles, felts and furs; metals and machinery; oils, paints and varnishes; earthenware, cement, china, glass and stone; drugs and chemicals; wood, wicker and cane; hides, leather and rubber; paper and stationery; vehicles; and musical instruments. The Customs Tariff (Exchange Adjustment) Act (No. 4) eliminates from the operation of the Customs Tariff (Exchange Adjustment) Act, 1933–6, those additional items and parts of items in the Schedule of import duties for which exchange variations are now

specifically provided for in the relevant items by the Customs Tariff, 1938 (Act No. 3). The Customs Tariff (Canadian Preference) (No. 5) applies customs duties equivalent to the duties under the Intermediate Tariff instead of under the British Preferential Tariff to certain imported goods of Canadian origin including costumes and dresses, piston rings for internal-combustion engines, sparking plugs and carpet sweepers. The Customs Tariff (No. 2) (Act No. 67) is complementary to the Newsprinting Paper Bounty Act, 1938, and amends tariff item 334 (C) (1) by providing for the imposition, from a date to be proclaimed, of certain additional rates of duty on unglazed newsprinting paper in rolls. Alterations are made in the import duties on tobacco and cigarettes containing a percentage of Australian-grown leaf by the Customs Tariff (No. 3) (Act No. 68). Tariff alterations necessary to give effect to the Trade Agreement with Switzerland, which was approved by Trade Agreement (Switzerland) Act (No. 57), are provided for in the Customs Tariff (No. 4) (Act No. 69). The Customs Tariff Validation Act (No. 42) validates until May 4, 1939, the collection of duties imposed under Customs Tariff proposals introduced into the House of Representatives on May 4, 1938. The Excise Tariff (No. 24) relates to the duties payable on Australian spirit used in the manufacture of essences, perfumes and toilet preparations, and provides for an excise duty of 6*d*. per cwt. on Australian-grown tobacco leaf. The rate of excise duty on manufactured tobacco is increased by 8*d*. per lb. by the Excise Tariff (No. 2) (Act No. 70).

Health.—The Therapeutic Substances Act (No. 41) amends the Therapeutic Substances Act, 1937, by setting out in greater detail the substances which the Minister may declare to be therapeutic substances for the purposes of the Act. Provision is made for the forfeiture of therapeutic substances which are imported, or sought to be exported, in contravention of the Act. New provisions are made regarding the sampling of substances imported or sought to be exported.

Loans.—Loans for Defence purposes are authorized by the Loan Act (Act No. 1) and the Loan Act (No. 2) (Act No. 71), the amount of the loans authorized being £10,300,000 and £10,200,000, respectively.

National Insurance.—A scheme of social insurance providing benefits in respect of sickness or disablement, together with old-age pensions for insured persons and pensions and allowances for their widows, is established by the National Health and Pensions Insurance Act (No. 25). The scheme is on a compulsory and contributory basis and applies to all persons over fourteen years of age employed under a contract of service in the Commonwealth, except persons employed otherwise than by way of manual labour at a rate of remuneration in excess of £365 per annum and certain other special classes. Provision is, however, made for voluntary insurance to a limited class of persons, *e.g.* former contributors. The Act provides health benefits comprising medical treatment, sickness benefit and disablement benefit. The pension benefits include old-age pension, widow's pension and orphan's pension. Dependent child's allowance is also provided for. As already mentioned, the scheme is on a contributory basis. These contributions are to be payable by the employer and employee in pursuance of the National Health and Pensions Insurance (Employers' Contributions) Act (No. 26) and the National Health and Pensions Insurance (Employees' Contributions) Act (No. 27), respectively. These Acts fix the weekly rates of contributions to be paid initially under the scheme by employed persons at 3*s*. for men and 2*s*.

for women, of which, in each case, the employee will pay half and the employer the other half. To assist in meeting the gradually increasing cost on the pensions side of the scheme, increased contributions are provided for after a lapse of five years. The weekly contribution for juvenile contributors is 8*d*., of which 4*d*. is to be paid by the employer and 4*d*. by the employee. Other contributions are prescribed for voluntary contributors. Contributions will be collected by means of a single stamp, for both health and pensions insurance, to be affixed weekly by the employer to the employee's insurance card for each week in which there is employment. The employer is entitled to recover the employee's contribution by means of a deduction from his wages. The scheme will start with an initial deficit both on the health and on the pensions side. These deficits will be met by grants from the Commonwealth. In order that the deficit on the health side may not fall on the approved societies, by whom the cost of health benefits (other than medical benefits) will be provided, the Act provides that the Commission shall credit to each approved society reserve values in respect of persons over the age of sixteen years who become members of the society. To meet this liability annual payments will be made to the National Insurance Trust Account from the Consolidated Revenue Fund at the rate of 10*s*. in respect of each such member until the liability is extinguished. Provision is also made for annual appropriations to the Trust Account to meet the liability for pensions. These appropriations will begin at £1,000,000 per annum and, after five years, will be increased by £500,000 per annum until the annual amount reaches £10,000,000. The Act constitutes a National Insurance Commission of three Commissioners. The Commission is, subject to the control of the Minister, charged with the general administration of the Act. On the health side, the scheme will, apart from medical benefits, be administered through societies approved by the Commission. Insured persons will be free to join such Societies as they choose. Medical benefits will be administered by the Commission, with the co-operation of a Medical Benefit Council and District Medical Benefit Committees. The Commission may enter into contracts with medical practitioners for the supply of medical services to insured persons, and may enter into contracts with registered pharmaceutical chemists for the supply of drugs and medicines to such persons. Lists of such medical practitioners and chemists will be published and, subject to certain necessary limitations, an insured person may select the medical practitioner by whom he desires that medical services shall be supplied to him.

Parliament.—The last of the reductions made by Financial Emergency legislation of 1931 on parliamentary salaries and allowances is removed by the Parliamentary Salaries Adjustment Act (No. 2). It also provides an additional allowance of £1,500 a year for the Prime Minister. By the Ministers of State Act (No. 44), the number of Ministers of State is increased from ten to eleven and the sum of £18,600 is appropriated in place of £16,950 for the salaries of Ministers. The Representation Act (No. 9) amends the Representation Act, 1905, so as to provide that Enumeration Days for the purpose of determining the number of members of the House of Representatives to which the several States are entitled shall be those days only on which a census is taken. Under the Act of 1905, a census day is a prescribed Enumeration Day and the Chief Electoral Officer is required to appoint other Enumeration Days. The

Chief Electoral Officer will not be required to appoint such other days in future.

Passports.—The Passports Act (No. 15) repeals, as from a date to be fixed by Proclamation, the Passports Act, 1920, and substitutes in its place a new Act under which it will be no longer compulsory for persons leaving Australia to be in possession of passports. An officer authorized by the Minister is empowered to issue Australian passports to British subjects. "British subject" is defined to include a person who in Australia or in any Territory of the Commonwealth is entitled to all political and other rights, powers and privileges to which a natural-born British subject is entitled; and also an aboriginal native of any such Territory or of any country under the protection of His Majesty. Australian passports may be cancelled by the Minister or an officer and passports so cancelled must be delivered up on demand by an officer. A visé, renewal or endorsement of a passport may also be cancelled. Passports obtained by means of false or misleading statements are to be delivered up on demand. Penalties are provided for false or misleading statements in connexion with applications for passports, visés, renewals or endorsements. Regulations may be made for empowering the Minister or authorized officers to issue certificates or other documents of identity for travel purposes and for empowering officers to renew and endorse British passports and to grant visés on passports requiring British visés. "British passport" means a passport issued by or on behalf of the Government of any part of His Majesty's dominions and the term includes an Australian passport.

Primary Producers' Assistance.—(i) *Export Control and Organization.* The export and marketing of apples and pears outside Australia is dealt with in the Apple and Pear Organization Act (No. 58). The Act provides for the constitution of an Australian Apple and Pear Board consisting of sixteen members, one representing the Commonwealth Government, eleven representing growers of apples and pears, and the other four representing exporters of apples and pears. The powers and functions of the Board include the making of recommendations for regulations with respect to the export of apples and pears from Australia and the making of reports and suggestions to the Minister on such matters as the quality, standards and grading of apples or pears to be exported from Australia. The Board is empowered to determine the export quotas of apples and pears. Regulations may be made prohibiting the export from the Commonwealth of any apples or pears (*a*) except by persons who hold licences under the Act; (*b*) except in accordance with the prescribed conditions and restrictions; and (*c*) unless the Board has issued a permit to export those apples or pears. The Board is forbidden to trade. The Act establishes an Apple and Pear Export Fund into which all moneys received under the Apple and Pear Export Charges Act (No. 59) will be paid. The Fund may be applied for the payment of the expenses of the Board and of any costs incurred in taking action likely to improve the quality of, or to expand existing markets or to secure new markets for, apples and pears. Provision is made for the termination of the Act in the event of a majority of growers voting at a poll for its discontinuance. The Apple and Pear Export Charges Act (No. 59) provides for the imposition of a charge upon the export of apples and pears. Subject to a lower rate being prescribed in the Regulations, the rate is to be $\frac{3}{4}d.$ for each case, two half cases or three trays of apples or pears exported.

Certain apples or pears may be exempted from this charge after report to the Minister by the Board. The present charge under the Primary Produce Export Charges Act, 1935, on the export of apples and pears will, by virtue of the Primary Produce Export Charges Act (No. 60), be terminated as from a date to be fixed by Proclamation. The name of the Canned Fruits Control Board was altered to Australian Canned Fruits Board by the Canned Fruits Export Control Act (No. 28). It also extends to September 30 in any year the date before which the annual report of the Board is to be submitted to the Minister. This alteration in the name of the Board necessitated certain consequential amendments in the Canned Fruits Export Charges Act, 1926–35. These amendments are made by the Canned Fruits Export Charges Act (No. 20). The time before which the annual reports of the Australian Meat Board, the Dried Fruits Control Board and the Australian Dairy Produce Board are to be submitted to the Minister is extended to September 30 in each year by the Meat Export Control Act (No. 19), Dried Fruits Export Control Act (No. 21) and the Dairy Produce Export Control Act (No. 18), respectively. The latter Act also makes certain amendments in relation to the constitution of the Australian Dairy Produce Board consequent on the creation of the Australian Institute of Dairy Factory Managers and Secretaries in place of the Australian Dairy Factory Managers and Secretaries Association.

(ii) *Fruit Industry Publicity and Research.*—The Apple and Pear Publicity and Research Act (No. 61) established a Fund known as the Apple and Pear Publicity and Research Fund which will be applied by the Australian Apple and Pear Board for the purpose of increasing and extending, by publicity, research or any other means, the consumption of apples and pears throughout Australia, and also for any purpose which the Board deems to be necessary or desirable for the improvement of the production of apples and pears in Australia. The Fund will be made up of moneys received by way of a tax imposed by the Apple and Pear Tax Act (No. 63). This Act imposes a tax upon apples and pears grown in Australia and, on or after a date to be fixed by Proclamation, sold by or on behalf of the grower. Subject to a lower rate being prescribed by Regulations, the rate of tax is to be ¾*d.* per bushel case. The necessary machinery provisions for the imposition, assessment and collection of this tax are provided for in the Apple and Pear Tax Assessment Act (No. 62).

(iii) *Fertilizer Subsidies.*—The subsidy on artificial fertilizers used in the production of primary produce (other than wheat) is continued for the year 1938–9 by the States Grants (Fertilizer) Act (No. 2) (Act No. 74). The subsidy is at the rate of 10*s.* per ton of fertilizer used during the year ending on June 30, 1939. In future, payment will not be made on any quantity in excess of ten tons of fertilizer used by any one primary producer and, for this purpose, a partnership or a group of persons working under a share-farming agreement is deemed to be one primary producer. A similar amendment in relation to partners and share-farmers is contained in the States Grants (Fertilizer) Act (No. 75) which deals with the subsidy for the year ended June 30, 1938. The latter Act also contains amendments designed to make it clear that the subsidy is payable only on fertilizer used *during* that year. The Financial Relief Act (No. 66) enables the Minister to consider claims for subsidy on artificial fertilizer used during the year ended June 30, 1937, in cases where the claims were not lodged before the prescribed date.

Red Cross.—The Geneva Convention Act (No. 14) enables effect to be given to Article 28 of the International Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field which was signed at Geneva on July 27, 1929. Shortly, the Act protects the use of the red cross and the Federal Colours of Switzerland.

Repatriation.—Under the Australian Soldiers' Repatriation Act (No. 55), the Repatriation Commission is authorized to retain and expend or invest the pension payable to an unmarried member of the Forces who is afflicted with lunacy or to a married member so afflicted the pension of whose wife has been terminated under s. 37 of the principal Act. The moneys retained may be applied towards providing clothing and comforts for the pensioner, towards payment of allowances to any member of the pensioner's family in necessitous circumstances and towards the cost of the pensioner's maintenance in an institution.

Science and Industry Research.—Further assistance to scientific and industrial research is provided for in the Science and Industry Research Appropriation Act (No. 7) which appropriates £250,000. This amount is credited to a Science and Industry Capital Trust Account. Moneys standing to the credit of the Account may be applied for the construction and equipment of laboratories and other buildings for the purposes of scientific and industrial investigations and research by the Commonwealth Council for Scientific and Industrial Research.

Seamen's Compensation.—The benefits to injured seamen are increased in several respects by the Seamen's Compensation Act (No. 56). The Seamen's Compensation Act, 1911, provided for a maximum weekly payment of 30*s.* during incapacity and for the payment to the dependants of a deceased seaman of an amount not less than £200 nor more than £500. These amounts have been increased to 70*s.*, £400 and £750, respectively. Lump-sum payments may now be paid as compensation in respect of certain specified injuries. Provision is also made for the payment of a weekly allowance, where total incapacity for work results from an injury, of 7*s.* 6*d.* a week in respect of each dependent child of an injured seaman under fourteen years of age, but so that the total amount payable is not to exceed his average weekly earnings. Payment of the cost of medical, surgical and hospital treatment and ambulance services up to a maximum of £25 is also provided for. Masters and deck and engineer officers are excluded from the scope of the Act as compensation for these persons is covered by Arbitration awards. Provision is also made for compensation for injuries caused by certain industrial diseases.

Seat of Government.—As the result of an amendment made by the Seat of Government Acceptance Act (No. 12), the Territory for the Seat of Government will now be known as the Australian Capital Territory.

Taxation.—(i) *Income-tax.*—The rates of income-tax for the financial year 1938–9 are imposed by the Income Tax Act (No. 39). Except for the amendments necessary to give effect to the decision of the Government to raise the rates of income-tax by 15 per cent., the Act is, in the main, similar to the corresponding measure for the previous year. The Income Tax Assessment Act (No. 46) makes several technical and drafting amendments in the Income Tax Assessment Act, 1936–7. One provision enables confidential information in regard to income-tax returns to be made available to the National Insurance Commission for the purpose of any Commonwealth law relating to insurance. Another provision is designed to ensure that the proper expenditure in earning exempt income

is debited against that income before it is available as exempt income for the purpose of paying dividends exempt from taxation. The exemption of dividends from profits earned by gold-mining companies is maintained and extended. Deductions are to be allowed to recoup expenditure incurred by the owner of a franchise granted for a public purpose in cases where he is required to hand over the assets to a Government or to a public authority without reimbursement after the expiration of the period of the franchise. Contributions by employees under the National Insurance Scheme are to be concessional deductions. Private companies are now permitted to deduct losses made in any ex-Australian business or trading. Another amendment is directed towards overcoming the technicality in the law which prevents wool freights being accorded treatment similar to that given to freight money on other forms of cargo. The taxation of re-insurance premiums paid to overseas re-insurers is also dealt with. The re-insurance premiums paid to, and the recoveries received from, ex-Australian re-insurers are to be excluded from the assessment of local insurers.

(ii) *Land Tax.*—The Land Tax Act (No. 45) increases the rates of land tax by approximately 11·1 per cent. S. 5 of the Land Tax Act is brought into line with s. 12 of the Land Tax Assessment Act. Under s. 5, the Commissioner is now authorized to issue assessments after the close of the relevant financial year. The word " sterling " has been omitted from formulæ relating to the calculation of the rate of tax.

(iii) *Sales Tax.*—The Sales Tax Acts (Nos. 1 to 9) (Acts Nos. 30 to 38) increase the rate of sales tax from 4 per cent. to 5 per cent. as from September 22, 1938. Additional exemptions from sales tax are provided for by the Sales Tax Exemption Act (No. 78). These exemptions relate to piping, salad dressing, invalid carriages, goods for State public libraries, materials for use in the construction of silos, machinery for use in the handling or storage of grain in bulk and several other articles. Amendments relating to the definition of " Aids to manufacture " and to " Books and printed matter of an advertising nature " are also included.

(iv) *Miscellaneous.*—The Income Tax Collection Act (No. 23) empowers the Commonwealth Government to enter into an agreement with any State for the deduction by the Commonwealth from periodical payments of wages, salaries or allowances paid to any officer of any tax imposed under the law of that State on those wages, salaries or allowances. Under Financial Emergency legislation, arrangements of this nature were made with several States in relation to salaries reduced under that legislation. The Act, in effect, authorizes the continuance of these arrangements. Other taxation measures were passed. They are referred to under—National Insurance; Primary Producers' Assistance—(ii) Fruit Industry Publicity and Research and Wheat Industry.

Territories.—The Ashmore and Cartier Islands Acceptance Act (No. 11) amends the Ashmore and Cartier Islands Acceptance Act, 1933. The amending Act provides that these islands shall be annexed to the Northern Territory and the laws, Ordinances and regulations of that Territory, so far as applicable, shall apply to and be in force in the islands. The New Guinea Loan Guarantee Act (No. 16) provides for a guarantee by the Commonwealth in respect of a loan to be raised by the Administrator of New Guinea to meet the cost of construction of a road between Salamaua and Wau. The guarantee covers the repayment of, and the payment of interest on, a loan not exceeding £150,000 raised by

the Administrator acting under the authority of a law in force in the Territory.

Trade Agreements.—A Commercial Agreement between the Commonwealth Government and the Swiss Federal Council and certain undertakings given in relation to the Agreement are approved by the Trade Agreement (Switzerland) Act (No. 57). The Agreement provides for reciprocal most-favoured-nation treatment; intermediate tariff rates and primage duty concessions in respect of a limited number of Swiss products; the reduction and consolidation of Swiss duties on certain Australian products; minimum annual quotas for Australian barley, apples, pears and timber; mutual undertakings as to non-discriminating quantitative restrictions on imports; the mutual right to withdraw concessions if other countries, as a result of the extension of the concessions to them, obtain the major benefits of the concessions; freedom for either party to take any action thought proper to re-establish the equilibrium of the Agreement, if either should adopt any measures which are considered to nullify or impair its advantages.

Wheat Industry.—The Commonwealth and States are co-operating in a scheme for the stabilization of the wheat industry in Australia. The portion of the scheme fixing prices for flour sold for home consumption in Australia so as to provide a payable average price to the growers of wheat is dealt with by State legislation. Complementary Commonwealth legislation provides for a tax on flour and payments to the States for distribution to wheat growers so long as the price of flour is less than 5*s.* 2*d.* per bushel free on rails at Williamstown and for the collection of a tax on wheat and payments to the States for distribution to flour millers when that price exceeds 5*s.* 2*d.* This complementary legislation is comprised of the Flour Tax Act (No. 49); the Flour Tax (Stocks) Act (No. 50); the Flour Tax (Imports and Exports) Act (No. 51); the Wheat Tax Act (No. 52); the Flour Tax (Wheat Industry Assistance) Assessment Act (No. 48) and the Wheat Industry Assistance Act (No. 53). The Flour Tax Act imposes a tax on flour sold by millers or used by them in the manufacture of goods other than flour. The Flour Tax (Stocks) Act imposes a tax on flour held in stock by persons other than millers on the date on which the flour tax commenced, namely, December 5, 1938. That portion of the Flour Tax (Imports and Exports) Act which relates to imports imposes a tax on imported flour and on the flour content of imported goods. In all cases the flour tax (not in any case exceeding £7 10*s.* per ton) is equal to the amount by which the Minister declares the price per ton of flour based on the price of wheat per bushel at Williamstown is less than the price per ton of flour would be if the price of such wheat were 5*s.* 2*d.* per bushel. So much of the Flour Tax (Imports and Exports) Act as relates to exports imposes a tax on exported wheat. The Wheat Tax Act imposes a tax on wheat grown in Australia and sold to a wheat merchant. In both cases the tax on wheat is that amount (not exceeding one shilling) which bears the same proportion to the excess of the price of a bushel of wheat free on rails at Williamstown over 5*s.* 2*d.* as the quantity of wheat used for home consumption bears to the total crop. The necessary legislative machinery for the collection of the taxes is contained in the Flour Tax (Wheat Industry Assistance) Assessment Act.

The distribution of the sums collected is provided for by the Wheat Industry Assistance Act which establishes a Wheat Industry Stabilization

Fund and appropriates for payment into that fund moneys collected under the aforementioned Acts. Two special accounts are kept in the Fund and are known as the Wheat Industry Special Account and the Wheat Tax Account. The Wheat Industry Special Account is credited with £500,000 during the first year of the operation of the tax and in each of the four succeeding years such amounts, not exceeding £500,000, as the Minister determines. The amount credited to this Account during the first year is to be distributed to the States to be applied to the relief of distressed wheat growers as follows: Victoria, £200,000; New South Wales, South Australia and Western Australia, £100,000 each. The amount paid into the Fund during the four succeeding years is for distribution to the States in such proportion as the Minister determines, and is to be applied towards meeting the cost of transferring wheat farmers from lands unsuitable for the economic production of wheat or arranging for these lands to be used for other purposes. The Minister may, however, authorize the use of the whole or any part of the amounts paid to the State for the relief of distressed wheat growers in that State. To the Wheat Tax Account is to be credited moneys collected as a tax upon wheat exported from Australia or produced and sold in Australia. The amount standing to the credit of this account is to be paid to the States for distribution to flour millers. This tax will not, however, operate unless, and until, the price of wheat free on rails at Williamstown exceeds 5*s.* 2*d.* a bushel. The residue of the Wheat Industry Stabilization Fund, *i.e.* the moneys collected by a tax on flour less the moneys paid into the Wheat Industry Special Account, is to be utilized as follows: (*a*) in payment of refunds and expenses of administration; (*b*) special grants to Tasmania of such amounts as the Minister determines; and (*c*) in making a payment to each State upon the condition that it is distributed to wheat growers in that State in proportion to the quantity of wheat sold or delivered for sale by each wheat grower during the year in respect of which the payment is made. In respect of the year 1938, advances not exceeding in the aggregate £2,000,000 may be made to States on account of the payments mentioned in sub-paragraph (*c*) and the amounts to be allocated to the States from the Wheat Industry Special Account during the first year. The Consolidated Revenue Fund is to be reimbursed out of the Wheat Industry Stabilization Fund, the amount of any such advance. Payments to a State may be suspended where the Governor-General is satisfied that the legislation of the State fixing the prices of flour or other wheat products has been so amended or that such action has been taken thereunder as prejudicially to affect the position of wheat growers in that State or that the State has not taken adequate steps to protect the consumers of flour and other wheat products against excessive prices.

2. NEW SOUTH WALES.

Acts passed—37.

Air Navigation.—No. 9 applies the Commonwealth Air Navigation Regulations (in so far as these regulations do not already apply) to air navigation within New South Wales. All aircraft operating within the State are made subject to uniform control in respect of navigation, air-worthiness and safety, and all pilots are required to conform to the rules in relation to competence, etc. The Act does not surrender to the

Commonwealth any of the State's legislative powers, and a provision is included specially saving the powers of the State to control and regulate transport by air.

Assurance Companies Management.—No. 2 was passed as a matter of urgency, and empowers the Governor to appoint, from time to time, the Public Trustee to take charge of the operations of the Producers and Citizens' Co-operative Assurance Co., Ltd., and the Commonwealth General Assurance Corporation, Ltd. The object of the Act was to protect the interests of policy holders by preventing certain people getting control of the companies.

Bills of Sale.—No. 27 repeals the Bills of Sale (Amendment) Act, 1936. The measure deals with traders' bills of sale and with bills of sale generally, but does not include a company or the holder of a publican's licence or an Australian wine licence granted under the Liquor Act. A trader's bill of sale is one given over plant, fixtures, fittings, goods, wares or merchandise owned and used or intended to be owned and used by him or which are thereafter acquired, and when so acquired will be owned and used or intended to be used by a trader in or in connexion with the business in which he is engaged or about to engage in retail trade. Special provisions are made in regard to the registration of traders' bills of sale which depart entirely from the registration requirements of other bills of sale. A doubt has existed as to whether the transfer or assignment of a bill of sale should be filed or recorded, and this doubt is cleared up retrospectively and prospectively by negativing such a requirement. Provision is made for the correction of accidental misdescriptions, etc. Power is given to the Supreme Court, or the Judge of the district court within the jurisdiction of which the grantor resides, to extend the time in connexion with filing, recording or renewing the registration of bills of sale, and to correct certain omissions which were accidental or due to inadvertence or some other sufficient cause. Restrictions are placed on the grantee or holder of a bill of sale in the exercise of any power of sale contained in it. The requirement that every traders' bill of sale should be renewed every twelve months has been amended to make the period every five years. A new provision requires the grantor of every bill of sale to furnish a statutory declaration specifying his absolute ownership to the property mortgaged or his interest therein. This declaration is made part of the bill of sale and, subject to certain conditions specified in the Act, is made conclusive evidence of the facts therein stated. Traders' bills of sale are not operative nor have they any validity in law at equity until they have been filed or recorded as provided in the Act. Provision is made for a creditor of the grantor of a bill of sale to enter a caveat, and for the proper dealing with caveats when entered.

Church of England (Bodies Corporate).—The Church of England Constitution Act Amendment Act, 1902, made provision for corporate bodies then existing, but did not do so for any the Anglican Synod might subsequently bring into being. No. 15 gives authority to the Synod, subject to the approval of the Governor, to create corporate bodies in connexion with the affairs of the Church of England.

Conveyancing, Trustee and Probate.—No. 30, which came into force on January 1, 1939, amends the Conveyancing Act, 1919–32; Trustee Act, 1925; the Wills, Probate and Administration Act, 1898–32; the Public Trustee Act, 1913–36; the Testator's Family Maintenance and

Guardianship of Infants Act, 1916–34; and the Real Property Act, 1900. The amendment of the Conveyancing Act provides that the inclusion of some non-charitable and invalid as well as some charitable purpose shall not invalidate a trust. It also makes further provision for dealing with trusts for charitable purposes and for the management of them, and provision in regard to the appointment of trustees of infants' property. The section dealing with the Trustee Act is the main part of the Act, and makes provision for the following matters: vesting of property on appointment and retirement of trustees; renunciation of probate; authorized investments; power to release part of a security only, whether any part of the mortgage debt is repaid or not; power of trustees to take new shares in a company; powers incident to a sale and taking deferred payments on sale of land by trustees; power to trustees to purchase, under certain circumstances, the equity of redemption of the mortgaged property in lieu of a foreclosure and certain incidental powers in regard thereto; and power of trustees to raise moneys for rates and taxes.

A new section, 39A, is inserted dealing with the question raised in the cases known as *Farmer* v. *Chard* and *In re Smart's Trusts*. Where a trustee is entitled in whole or in part to a mortgage debt for persons by way of succession, and is in possession of the mortgage security, provision is made for the appropriation and ultimate adjustment of the income. Various other powers are given to trustees for the purpose of facilitating the carrying out of their duties in connexion with their trusts.

Most of the amendments made in the Wills, Probate and Administration Act are of a machinery nature, and deal with matters appertaining to the administration of estates by executors and administrators. One alteration inserts the words "one thousand" in the place of "five hundred." This has the effect of giving the widow of a person dying intestate and without issue double the prime allowance out of his estate which she previously got.

The amendments made to the Public Trustee Act and the Real Property Act are of a machinery nature, and for the purpose of facilitating the administration of the departments concerned.

The Testator's Family Maintenance and Guardianship of Infants Act is amended to provide that where a person dies wholly intestate and his widow is left without adequate provision for her proper maintenance, she may apply to the court which, in its discretion, and taking into consideration all the circumstances of the case, may order that such provision for her maintenance as the court thinks fit should be made out of the estate.

Co-operative Building Societies.—No. 5 enables co-operative building societies, whose operations are guaranteed under the Government Guarantees Act, 1934–7, to meet, out of their loan accounts, initial expenses in obtaining their loans; and also to repay subscriptions to members who have not had an advance and who wish to discontinue membership. The treasurer's liability is not to be increased by the exercise of such power. The Colonial Treasurer is empowered to enter into an indemnity agreement in specified cases, where the amount of the loan has been wholly or partly advanced to a member. Indemnity agreements already executed where the loans have been advanced in whole or in part before the date of execution of the agreement are validated. A new section, 34A, makes more specific the position arising out of agreements to indemnify guarantors.

Crown Lands and Closer Settlement.—No. 29 provides that in setting apart closer settlement areas the Minister may require the applicant for any settlement purchase to apply for and accept from the rural bank the moneys necessary to complete the purchase. The operation of the 22½ per cent. reduction in interest and annual rentals provided for in s. 3 of the Crown Lands (Amendment) Act, 1932, is extended for a further three years. The Minister for Lands is empowered to waive or remit the payment by discharged soldiers of "adjusting interest" in connexion with settlement purchases and soldiers' group purchases. The Minister is also given power under the debts adjustment provisions of the Farmers' Relief Act to write off either wholly or in part any unpaid rent or interest in connexion with Crown tenures, or any amount secured by a mortgage or charge in favour of the Minister. A number of amendments in clause 7 relate to the terms of conditional leases arising out of conversion of Crown, settlement and conditional purchase leases, and to the extension of leases to leases in perpetuity. The effect is to make former legislation more explicit in those matters. Provision is made for the disposal of excess moneys consequent upon the conversion of conditional purchases to homestead farms, and subsequent conversions. Where there is an excess amount, the Crown may credit it against other debt or debts owing to the Crown by the settler. In any other conversions a similar method can be adopted with the concurrence of the settler. The Act validates action taken in a smaller number of cases regarding the payment for Crown improvements whereby Crown tenants were afforded terms not in accordance with the provisions of the Crown Lands Act. Provision is made for the conversion of special leases into Crown leases under appropriate conditions.

Dairy Industry.—No. 28 amends the Dairy Industry Act, 1915–32. An application made for the registration of premises as a dairy produce factory may be refused in cases where it is considered registration is not in the best interests of the dairying industry. Every such application is to be referred by the Minister to an Advisory Committee consisting of three members appointed by the Governor. If the Minister, after considering the Committee's report, is satisfied that it is not in the best interests of the dairying industry that the premises to which the application relates should be registered, he may in his absolute discretion refuse to register the factory. These provisions do not apply to any factory where construction was commenced before November 29, 1938, nor to any dairy farm factory where the butter or cheese is manufactured solely from cream or milk produced on the farm.

No. 26 amends the Dairy Products Act, 1933–6. One of the principal alterations is the replacement of clauses 6 and 7, relating to the determination and promulgation of a quota, by new sections. Instead of a fixed maximum penalty of £500, as in the old sections, the penalty is to be made proportionate to the quantity of product sold above the quota. In the case of butter, the penalty is to be not less than £4 and not more than £6 for every hundredweight (or part) sold in excess; and in the case of cheese, not less than £2 and not more than £3. Clause 9 of the principal Act is omitted and a new clause substituted. This requires every agent, proprietor of a cold store, and manufacturer to furnish to the Board in Sydney periodical returns relating to the butter and cheese sold, manufactured or in store. The maximum penalty for non-compliance is £100.

Gaming and Betting.—No. 7 provides for stricter control over the activities of starting-price bettors and restricts off-the-course betting. The definition of "street" in the principal Act is extended to include hotels and vessels used in navigation. It is illegal for any person to frequent, use or be in any hotel for the purpose of betting, or for any bookmaker or his agent to make a bet therein. The same provision applies to billiard rooms, theatres and public halls, and ferry-boats following sailing races. A new section provides that no house, etc., shall be used for the purpose of transmitting, at any time before the actual starting time of the last race, any information concerning betting or betting odds in respect of races at a race meeting. It is an offence to print or publish any advertisement about the probable result of any race, and to open or to keep or use any place for the purpose of making any oral statements about the probable result of any race. Any person is subject to a penalty who, without the approval or authority of the race club concerned, prints or publishes race programmes.

Industrial Arbitration and Workers' Compensation.—No. 36 extends the Commission's powers of investigation and report under s. 82 of the Industrial Arbitration Act, 1912, to include investigation, upon reference by the Minister, into the question of rents or increases in rents of premises, and the prices of certain commodities.

The Workers' Compensation Commission is reconstituted so as to consist of not less than three and not more than four members with district court status. S. 63 of the Workers' Compensation Act, which confers on workers the right to proceed independently of the Act (by proceedings at common law or under the Compensation to Relatives Act) in cases of injuries caused by the personal negligence or wilful act of the employer or his servant, is amended to provide that no such proceedings are maintainable, in the following circumstances: (*a*) after a period of six months from the date of the first payment of compensation under this Act; (*b*) after a period of twelve months from the date of assent of this Act in those cases where claims had been finalized prior to such assent; and (*c*) in those cases where proceedings are taken before the Workers' Compensation Commission and the form of election is signed by the applicant.

Life Insurance.—No. 21 places beyond doubt the obligation of an insurance company to pay if an assured person commits suicide after the expiration of any period prescribed in the policy against such an act.

Medical Practitioners.—No. 37 consolidates and amends the law relating to the registration of medical practitioners, and repeals the Medical Practitioners Act of 1912 and the Medical Practitioners (Amendment) Act of 1915. The Medical Board to be constituted under the Act shall consist of not less than seven nor more than nine members, including a nominee of the Senate of the Sydney University and a nominee of the New South Wales branch of the British Medical Association. Graduates in medicine or surgery of any Australian or New Zealand university will be entitled to registration as medical practitioners without further examination. Graduates from other universities in the British Empire will also be entitled to registration provided reciprocity exists with New South Wales. Subject to a limitation of the registration in any one year of not more than eight persons who are not natural-born British subjects, provision is made for the registration of graduates of foreign universities in certain circumstances. The right of appeal to the Supreme Court is

given to any person who applies for and is refused registration. Any person who is registered on and after January 1, 1941, shall not be entitled to practise his profession unless and until he has served as a medical officer in an approved hospital, or hospitals, for a period of twelve months or periods aggregating twelve months. Provision is made for the issue of certificates of registration for post-graduate teaching or for research work in medicine or surgery. The Act provides for a disciplinary tribunal consisting of the members of the Medical Board, under the Chairmanship of a district court judge, for the purpose of inquiring into charges of misconduct, etc., preferred against medical practitioners. The disciplinary tribunal will have the powers of a Royal Commission in investigating any such charges. The decisions of the tribunal are subject to appeal to the Supreme Court. There is also provision for a Medical Practitioners Charges Committee consisting of the Director-General of Public Health, the Under-Secretary, Department of Public Health, and a member of the Medical Board. The Committee is empowered to review the fees charged by medical practitioners in cases where it is requested by patients to do so. It is made an offence for an unregistered person to pose as a legally qualified medical practitioner; for a person, whether registered or not, to advertise otherwise than in accordance with the regulations; and for an unregistered person to use radium or X-rays for the treatment of any human ailment except under the direct supervision of a registered person. Advertisements to promote the sale of foods, drugs or appliances, and advertisements containing false statements concerning the ingredients or the effects of medicines, appliances, etc., are prohibited.

Parliamentary Allowances and Salaries.—No. 18 restores the allowances to Ministers of the Crown, and other members of Parliament, which were reduced in 1930 and 1932, to the original amounts.

Soil Conservation.—No. 10 establishes, under a Director, a Soil Conservation Service which will institute investigational work in key districts, conduct demonstrations of methods of soil conservation and erosion mitigation, effect land use and erosion susceptibility surveys and carry out intensive educational campaigns. Every type of erosion may be dealt with, including ocean foreshore erosion, coastal sand dune formation, erosion by water of agricultural and orchard lands, river bank erosion, and erosion by wind of the arable and pastoral lands in the central and western divisions of the State. Important catchment areas and tracts of country specially liable to erosional damage will be notified either as catchment areas or as areas of erosion hazard. Owners of lands therein may thereafter enter into agreements with the responsible Minister under which expert direction will be given by the Soil Conservation Service so that owners may use their lands in accordance with approved projects designed to reduce to a minimum the damage consequent on erosion. Compulsory action may be taken against owners whose actions cause depreciation of the lands of adjoining owners or adversely affect national works associated with irrigation schemes, domestic water supply systems and hydro-electric proposals. The Act provides for a Catchment Areas Protection Board representative of a number of interested Government departments and corporate bodies. This Board will regulate the disposal of Crown lands in those areas where there is a serious erosion liability, and act in an advisory capacity in respect of any aspect of the erosion problem which may be specially placed before it. The lighting of fires in catchment areas and areas of

erosion hazard may be regulated, and the cutting of timber on Crown lands controlled.

Theatres, Public Halls and Cinematograph Films.—No. 35 amends the Cinematograph Films (Australian Quota) Act and the Government Guarantees Act, and provides for the setting up of a Theatres and Films Commission which, subject to the direction and the control of the Minister, shall be charged with the administration of the Cinematograph Films (Australian Quota) Act. The functions of the Films Advisory Committee are transferred to the Commission, which, in addition, is given power to deal with the question of restriction of picture theatres—both in regard to new buildings and the extension of seating accommodation in existing ones. Rejection of any application in regard to such matters may be made the subject of appeal to the District Court. There is also authority for inquiry into any matter, dispute, or question relating to films, including production and distribution.

The rejection right of 12½ per cent. conferred upon exhibitors is increased to 25 per cent. Exhibitors are required to exhibit a quota of British films amounting to 15 per cent. Under Part IV the Colonial Treasurer, with the approval of the Governor, may enter into agreement with any persons carrying on or about to carry on the business of a producer of films in New South Wales, and may guarantee their overdraft account with any bank.

Wheat Industry.—No. 32 provides for the distribution of moneys collected by the Commonwealth under the Flour Acquisition Act, 1931–5, and paid to the State for assistance to wheat growers. The moneys are to be carried to a special account in the Treasury and paid through the Rural Industries Agency of the rural bank in the manner provided by Commonwealth legislation. The Government statistician is empowered to furnish information to the Rural Industries Agency for the purpose of enabling the Agency to check information furnished by the wheat growers. The Act also provides for payments to farmers from the Flour Acquisition Account of additional sums as the Governor may determine.

No. 19 empowers the Governor to fix minimum and maximum selling prices for flour, and maximum selling prices for bread, bran, pollard and other declared wheat products. The Governor in fixing prices shall have regard to certain factors, but he may not fix a price for ordinary wheaten flour of less than £11 per ton or more than £13 10*s*. per ton delivered on the buyer's premises at Sydney, in bags containing approximately 150 lb. weight. The Governor is also empowered to appoint an Advisory Committee, or committees, to assist him in the administration of the Act.

3. QUEENSLAND.

[*Contributed by* J. E. Broadbent, Esq., I.S.O., B.A., *Parliamentary Counsel and Draftsman.*]

The Session of the Parliament of Queensland commenced on August 9, 1938, and terminated on November 16, 1938. During the Session thirty-three Bills were introduced and all were passed into law. The more important of the measures may be observed.

Three Acts were passed—the State Development and Public Works Organization Act, the Rural Development Transfer and Co-ordination of Powers Act, and the Income (State Development) Tax Act—having

conjointly for their aim the securing of an orderly system of governmental and semi-governmental works, and rural development on a planned economic basis.

State Development and Public Works Organization.—No. 3 is an Act intituled an Act to provide for improving the general economic welfare of the State and for the encouragement of employment generally by providing for an orderly planned system of public works and constructional utilities by means of the marshalling and co-ordinated organization and control thereof. The measure operates for seven years from January 1, 1939, but may be extended from time to time for further period or periods.

A Co-ordinator-General of Public Works will be appointed, who will, subject to the Minister, have the general administration of the Act. The measure sets out what consideration shall be regarded to enable a comprehensive programme of public works and constructional utilities for the development of the State to be co-ordinated, regulated and controlled. The Governor in Council may make a selection of what may be termed "larger works projects" which will be subject to examination as to general employment and as to productivity. The Minister has power to direct the Co-ordinator-General to prepare a plan for the orderly carrying out of a programme of works for the State or portion thereof for a defined period. Recommendations or objections to the plan will be considered, and on the final approval thereof the Governor in Council shall give the necessary directions to effect same.

The Co-ordinator-General shall co-operate with the Bureau of Industry and the Rural Development Board, and there will also be a general co-operation with Departments of State and local or semi-governmental bodies, the officers whereof are required to co-operate with the Co-ordinator-General and attend any necessary conferences. For the purposes of the Act the Co-ordinator-General in holding an inquiry has the power and authority of a Commission under the Official Inquiries Evidence Acts.

An important provision is also enacted whereby a local body may be called upon to undertake public works if the Co-ordinator-General recommends that such works are necessary in the public interest and in the direction of aiding the employment position of the area concerned.

If the Governor in Council approves of such recommendation, the local body concerned may be ordered to carry out the prescribed works. In case of default the Governor in Council may notify the local body that within a specified time he will authorize the Co-ordinator-General or Bureau of Industry or Works Board to carry out the works as agent for the local body. An appeal may be made by the local body to the Governor in Council, who may delegate the hearing of the appeal to such committee, tribunal or person as he shall appoint. The decision of the delegate may be adopted by the Governor in Council with or without modification. Costs, charges and expenses shall be payable by the local body in default, and moreover the constructing authority may obtain a loan as agent of the local body to carry out the works as its agent. The usual machinery provisions are enacted as to furnishing information and returns to the Co-ordinator-General, and there is wide power to make orders in council and regulations.

Rural Development Transfer and Co-ordination of Powers.—Act No. 4 provides for the co-ordination of the administration of provisions regarding

State advances to co-operative companies, associations, and primary producers, and advances generally in aid of primary production by the creation of a Corporation called the Bureau of Rural Development. The Minister for Agriculture will be a corporation sole under the name of the Corporation of the Bureau of Rural Development and shall have usual corporate powers. The Corporation of the Agricultural Bank shall be merged into this new corporation, and the necessary Fund will be established at the Treasury. Borrowing powers for primary producing or rural development are re-vested in the Corporation. A Rural Development Board shall be constituted of three members, one representative of the Department of Agriculture, one representative of the Treasury, and one representative of the Land Administration Board. Hence there will be a measure of co-operation between the three important Departments. The Board shall also be entrusted with the duty of advising the Corporation and other Corporations or Departments in respect of advances under several Measures in aid of rural development, and will submit proposals for the effective organization and expeditious administration in respect of rural development and finance. The Board also co-operates with the Co-ordinator-General under the State Development and Public Works Organization Act, and also with that officer in respect of applications for financial assistance under the Income (State Development) Tax Act. The Corporation may manage the business of any other Crown Corporation or Instrumentality as the fully constituted deputy and attorney thereof. Wide order in council making power is given to the Governor in Council. The Agricultural Bank Acts shall in future be styled as "The Rural Development Co-ordination of Advances Act."

Income (State Development) Tax.—Act No. 22 operates from January 1, 1939, and also is in aid towards the improvement of the general economic welfare of the State and of employment generally; the measure imposes an income (State development) tax upon incomes and repeals the Income Unemployment Relief Tax Acts. This measure, as in the repealed Acts, provides for the collection of the tax by the Director of Labour at the source in respect of income from employment, and by the Commissioner of Taxes in respect of income other than income from employment by means of an assessment. While the tax under the repealed Acts was paid unto a special Fund, the tax under this measure shall be paid into Consolidated Revenue. This measure unlike the repealed Acts shall not require promulgation from year to year, but will be a taxation Act, its duration or change in incidence depending on Parliament itself. Compared with the repealed Acts, the tax shall be reduced. When the annual rate of income does not exceed that of the basic wage (plus parities) no rate of tax shall be payable. Hence it will be observed that incomes up to £211 in respect of income from employment earned in the Southern Division (Eastern district) have no rate of tax applicable; similarly in the Northern Division (Western district) where the annual rate of income is £256 no rate of tax is applicable—in other words the parity represents an amount of £45 per annum. There is also a reduction of two pence in the £1 in respect of other rates—*i.e.* the rate up to £499 per annum is 6*d.* in the £1 instead of 8*d.*, and over £499 per annum the rate is 9*d.* in the £1 instead of 11*d.* The rates in respect of income other than income from employment, collected by means of an assessment, are—not exceeding £227, a rate of 3*d.* in the £1; not exceeding £499, 6*d.* in the £1, and exceeding £499, 9*d.* in the £1, with an exemption of an income of £211. Provisions

are inserted providing for necessary adjustments for the first financial year. The measure, as in the case of the repealed Acts, allows loans and/or grants to be made to various local bodies in the direction of creating employment or of developing the State. These loans or grants are made pursuant to applications which are referred to the Co-ordinator-General of Public Works in the first instance, who consults with the Rural Development Board. The final approval lies with the Governor in Council. Usual machinery provisions, and regulation-making powers are prescribed.

It will hence be observed that the above three measures co-ordinate works and financial aid in respect of works and rural development.

Warehousemen's Lien.—No. 5 gives a warehouseman a lien in respect of goods stored with him. It also permits of a warehouseman selling the goods after proper notice in order to pay for his costs charges and expenses. From the proceeds of sale the warehouseman shall satisfy his lien and shall pay over the surplus (if any) to the person entitled thereto. If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different claimants, or the rights thereto are uncertain, the warehouseman shall pay the surplus to the Public Curator.

The measure follows in principle the New South Wales Act of 1935, No. 19.

Law Society.—No. 6 enlarges the jurisdiction of the statutory committee to deal with practitioners alleged guilty of malpractice, professional misconduct or unprofessional conduct or practice. The Statutory Committee is to consist of five members (as previously), but each member shall be nominated by the Council of the Law Society and shall be appointed by the Governor in Council on the recommendation of the Chief Justice. The term of office is two years, but the Governor in Council may on the nomination of the Council and on the recommendation of the Chief Justice remove any member of the Statutory committee from office as member of such committee. A copy of every order of the Statutory committee is required to be served on the Minister, who is given a right of appeal from such order to the court. Certain amendments deal with the Fund, and provisions as to audit are made more stringent in respect of the books and accounts of practitioners.

Electric Light and Power.—No. 7 extends throughout the State certain principles passed in the measure of 1937 which applied only to the South-eastern division thereof. The power of entrusting to the Electricity Commission the negotiations with an authority for the grant of an order is provided, the Governor in Council having final approval of the agreement. Certain safety provisions are enacted giving the Commission power to deal with unsafe electric lines on streets ; it shall also have power to regulate the sale of electrical equipment and shall have the duty of testing meters.

Mines Regulation.—Owing to the increased use of electricity in mines, power is given by Act No. 8 to appoint electrical inspectors with proper qualifications.

Coal Mining.—By No. 9 provision is also made for the appointment of electrical inspectors in coal mines. Owners are required to register the name of their mines. Provisions set forth what class of manager is required to be appointed to a coal mine, the qualification varying with the number of men employed underground except in certain cases. Accurate plan of the workings of every coal mine shall be kept at the office of the mine. Safety provisions are also provided requiring proper apparatus for raising

and lowering men to be installed and kept ready for immediate use at each opening where there are two separate openings to the surface.

Apiaries.—Act No. 10 consolidates and amends the law relating to the regulation and control of the keeping of bees, and for the control and restriction of diseases and pests in relation thereto. The Act has been framed having regard to experience in administration and the necessity for the protection of this growing industry.

Public Works Land Resumption.—No. 11 provides that when compensation in respect of a Crown resumption has been determined by the court, the Crown shall, within three months of the determination of the Land Court, or within three months of the determination of the Land Appeal Court, have power to elect whether it will in the public interest continue with the resumption in full, or discontinue same, or take part only of the resumption. The measure has retrospective effect from January 1, 1938.

Sugar Experiment Stations.—No. 12 deals chiefly with prevention of disease in sugar-cane plantations. The Act places the diseases in plants provisions in relation to sugar-cane under the Sugar Experiment Stations Act and gives the Director of Sugar Experiment Stations wider powers and jurisdiction generally with regard to determining "approved varieties" of cane, matters of quarantine and disease prevention and control generally. Cane Disease Control Boards may be constituted for specific areas the duties of which are to take steps for the proper suppression and prevention of cane disease. In cases of emergency which may be declared by the Governor in Council the duties and responsibilities of Cane Pests Boards or Disease Control Boards are vested in the Advisory Board under the Sugar Experiment Stations Act.

Dairy Produce.—No. 13 makes various amendments which administration has shown to be necessary. Every owner of dairy-produce premises shall register, and at all times keep registered under the Act, and in his own name his dairy-produce premises. The Minister has discretionary powers with respect to the grant or renewal of licences and may hold an inquiry before arriving at a determination. The Minister, however, shall not refuse to grant a renewal of or revoke or cancel a registration or licence without the approval of the Governor in Council. A veterinary officer is authorized to enter dairy premises and inspect stock. He may declare quarantine and give necessary orders to enforce such quarantine. A person aggrieved by any such order may appeal to the Minister, who may confirm, revoke or modify such order as he thinks fit. The Minister may apply to the Supreme Court for an order in the nature of a mandamus to compel compliance with the Act or an injunction to restrain a breach or continuance of a breach of the Act. Wider regulations making power is prescribed, and certain existing regulations are confirmed and ratified.

The Act also gives power to an inspector to condemn any preservatizing agent or colorization agent used or intended to be used in connexion with the manufacture or preparation of dairy produce or any disinfectant which does not comply with the Act or by reason of its composition being unsuitable. An owner of a dairy may apply for a certificate that his herd is free from tuberculosis. Provisions also deal with notification of milk routes and the licensing of carriers for milk routes, following the principle already laid down as to cream routes. Canvassing for milk or cream supplies to any particular factory is prohibited. Further powers prescribed as to grading of milk.

State Transport.—Act No. 15 provides for the better co-ordination and utilization of the transport facilities of the State. The measure repeals the existing Act and the Heavy Vehicles Acts and re-enacts the law with amendment in one comprehensive Statute. A Royal Commission on Transport in 1936 brought up a valuable report, and certain of its recommendations are included in the measure.

It is enacted that, unless otherwise exempted, the Act shall apply to all vehicles used for the carriage of goods upon any traffic route or for the carriage of persons upon any traffic route or within any traffic area and in addition shall apply to such other vehicles as the Commission may from time to time determine. Subject to the Commission otherwise determining, either generally or in any particular case, when a vehicle is used in full compliance with a condition set forth in the second schedule, such vehicle shall according as the condition so prescribes be exempted either wholly or in part from the Act. The schedule may from time to time be modified by Order in Council. It will be observed that the exemptions embraced in the repealed Heavy Vehicles Acts are for the most part contained in this schedule. Provisions deal with the licensing of vehicles, and it is provided that no vehicle to which the Act applies shall be used for the conveyance of passengers or goods, or both, on any traffic route or in any traffic area, as the case may be, unless and until this Act has been fully complied with in respect of such vehicle. The State Transport Commission consists of three members, one of whom shall be chairman. A member holds office during good behaviour, but no such appointment or reappointment shall be for a term exceeding three years. The Commission is a body corporate with perpetual succession and an official seal. Every decision of the Commission shall be submitted to the Minister for his confirmation within twenty-eight days after such decision has been placed on record. Moreover, subject to the direction of the Governor in Council with respect to decisions on matters of routine no decision of the Commission shall have any effect unless or until it has been confirmed by the Minister. It is specifically enacted that it shall be the duty of the Commission to ensure that the reasonable requirements of the public for the conveyance of passengers and goods shall at all times be adequately met. With a view to securing as great a degree of co-ordination as possible among the various forms of transport for the conveyance of goods and passengers and to avoid unnecessary overlapping of and uneconomic competition between the various forms of transport, the Commission as occasion requires shall investigate and report on the adequacy or safety of transport facilities, and make proper recommendations to the Minister, and shall also review and report upon any proposed extension or curtailment of any railway, tramway, omnibus, water, or air transport service. The Commission may either generally or in any particular case require the Commissioner for Railways to call public tenders for co-ordinated services having regard to the special claims of persons already operating co-ordinated services on particular routes. It shall be the duty of the Commission to issue such and so many licences to vehicles for the carriage of goods and/or passengers upon any traffic route, or for the carriage of passengers within any traffic area as will ensure that the reasonable requirements of the public will be adequately met. When the Commission determines to issue a licence it may submit same for sale by public tender. New provisions following the lines of Imperial and New Zealand legislation deal with driving hours and safety provisions. The limit of

continuous driving hours is set forth, but no person shall be liable for a breach of the section if he proves to the court that the contravention was due to unavoidable delay in the completion of any journey arising out of circumstances which he could not reasonably have foreseen. The Industrial Court shall have power to direct by an award or otherwise the hours to be observed by drivers, whether or not employees, and other conditions of employment and a failure to comply with any such direction shall be a breach of the Industrial Conciliation and Arbitration Acts and punishable accordingly. Operators of motor vehicles must obtain the necessary certificates of competency. Provisions are inserted dealing with emergency powers. These powers will be exercisable by the Governor in Council, who has wide jurisdiction to make orders when circumstances exist, or are likely to come into existence, whereby, whether by fire, flood, tempest, or other cause or circumstance the peace, welfare and good government or the public safety may be imperilled. Such provisions may relate to securing the essentials of life to the people, securing and regulating supply and distribution of food, water, fuel, light, transport and generally. Power is given to make regulations. A State Transport Fund is also created and certain payments are made therefrom to local authorities (including the Commissioner of Main Roads) towards the construction, repair and maintenance of roads.

Stock Routes Improvement and Animal and Vegetable Pests Destruction.—Act No. 16 gives a delegated local authority in a proclaimed district wider powers to make by-laws, regarding the use of water, on stock routes and reserves associated therewith.

Nurses' and Masseurs' Registration.—No. 17 prohibits any person from wearing a nurse's cap, unless such person is a registered nurse, with the exception in respect of the wearing of a habit to conform to the requirements of a religious order, or a person taking part in a religious rite wearing the customary raiment.

Vagrants, Gaming and other Offences.—Act No. 18 deals with four matters. Provisions complementary to Commonwealth law deal with publications of matters of sex and crime calculated to encourage depravity. The definition of "obscene publication" is widened to embrace such publications. Provisions permit of the police entering by warrant a place and seizing literature containing offensive or defamatory words. Power is given to a police officer by warrant to enter into a place, where a "fruit machine" (being a gambling contrivance) is suspected to be and to seize and carry off the machine, which thereupon becomes forfeited to His Majesty. Provisions also deal with nuisances caused by noisy wireless, or other mechanical machines in houses, shops and vehicles. It is enacted that the amplification or reproduction of sounds from a machine is a nuisance if it causes undue distress, annoyance or irritation to any person or persons in any other place, or if such amplification or reproduction causes or is calculated to cause persons to assemble. On a complaint before a justice a warrant may issue directing a police officer to enter a place and require the owner of the offending machine to abate the nuisance. On failure to so abate, the owner may be prosecuted. If the nuisance is not abated, a police officer can by a further warrant enter the place and seize and carry off the machine. The police can also seize any machine if not claimed by any person as owner. However, the owner may apply to an inspector of police for the return of the machine, and if the inspector refuses, he may appeal to a court.

Exemption from these nuisance provisions is prescribed in respect of the use of such machines at lawful public meetings, held pursuant to a permit, provided the terms of the permit are complied with.

Veterinary Medicines.—No. 19 brings the principal Act of 1933 up to date in the light of modern developments. Provision is made for the appointment of a registrar, whose duty is to register approved veterinary medicines. The Veterinary Medicine Board, however, has the duty of certifying, or otherwise, to the efficacy of the medicine, and an adverse report of the Board causes refusal to register, subject to an appeal to the Minister. An alteration of the constituents of the medicine requires fresh registration. An inspector may enter premises and inspect veterinary medicines. These may be seized if they do not comply with the Act, but may be released on subsequent compliance within a prescribed period.

Legal Practitioners.—Act No. 20 deals with certain phases connected with the legal profession. On and after January 1, 1940, no person shall be admitted to practise as a conveyancer, but existing students may complete their studies and examinations, provided this is accomplished before December 31, 1941. A conveyancer of five years' standing may be admitted as a solicitor on passing certain subjects in the solicitors' final examination. Provisions also aim at severance of the practice of barrister and solicitor. It is laid down that a barrister shall not be entitled to practise as a solicitor, and a solicitor shall not be entitled to practise as a barrister. A barrister whose name is on the roll of practising practitioners may elect to be enrolled as a solicitor ; and on so electing, his name is removed from the roll of barristers and he is enrolled as a solicitor. Any barrister of good repute, who is, or shall be, admitted on or prior to June 30, 1939, or who shall have been admitted after that date and who shall have been in practice for three years, or who shall have served under articles of clerkship to a solicitor for three years, or who subsequent to enrolment as a barrister shall have for a period of three years served with a solicitor as law clerk, or associate to a judge, or in certain legal offices of the Crown, shall on motion in open court and at his request be admitted as a solicitor, and thereupon his name shall be removed from the barrister's roll. Provision is also made to enable certain public servants to be admitted as solicitors without service under articles. Such public servant must have passed the Public Service Examination and have completed fifteen years' service in the office of Solicitor-General, or of the Crown Solicitor, or the Supreme Court or Public Curator or Clerk of Petty Sessions. The service can be taken over all such offices, but if service in the Public Curator's office or in a Clerk of Petty Sessions office is counted, the public servant must also pass a Clerk of Petty Sessions examination. After five years' service (with preliminary examinations completed) the student can present himself for the solicitors' intermediate examination, and after ten years' service (with all prior examinations completed) he can present himself for the first section of the solicitors' final examination, and then after twelve months for the second section. Admission, however, can only be obtained after fifteen years' service. Certain rights of audience are preserved.

Mental Hygiene.—Act No. 21 is a general consolidation of the previous Insanity Acts (the principal Act being 1884) with amendments after consideration of more recent legislation in England, New Zealand and the other States and after medical inquiry research and recommendation. The general notion is to remove as far as possible the term " insane " or

"lunatic" from mental patients, and to refer to such patients as being "mentally sick persons." A mentally sick person is defined as a person who, owing to mental sickness, requires care, treatment and/or control for his own good, or in the public interest, and is for the time being incapable of managing his affairs. The Director-General of Health and Medical Services (who is an officer appointed under the Health Acts) shall have the general administration of the Act under the direction of the Minister. The Director-General has wide power of inquiry and investigation, and there is co-ordination between the general health service and the services under this Act. A Director of Mental Hygiene shall also be appointed who will, subject to the Director-General, be charged with the administration of the Act, and shall be responsible for the direction and supervision of every mental hospital, and shall exercise and perform such duties and powers as are conferred or imposed upon him under this Act. Provision is made for the establishment by the Governor in Council of mental hospitals; private accommodation for the care and treatment of a mentally sick person may be provided at any mental hospital. The Governor in Council may establish at any hospital in association with it a place for the care and treatment of mentally sick persons or persons suspected so to be. Licences may be issued for the keeping of private mental hospitals and for the care, treatment and control of single patients. Mental hospitals are also provided for the care and treatment of criminally mentally sick persons. There are three classes of patients—voluntary, temporary and certified—and specific provisions are laid down governing each class. Cases of emergency are also provided for, and there is also a general re-enactment of the existing law dealing with duties of members of the Police force in certain cases. A Judge of the Supreme Court may direct an inquiry as to the condition of a patient. Part VIII deals with the administration of the estates of mentally sick persons. This part of the Act has been brought into line with the Public Curator Acts, 1915 to 1938, so that there is a measure of uniformity in administration. The Public Curator shall undertake the general care, protection and management or supervision of the management of the estates of patients. He shall also supervise and enforce the performance of the obligations of all committees of mentally sick persons and receivers, and shall take care of, collect and administer the estates of patients. The Supreme Court may on petition by the Public Curator or any other person, appoint the Public Curator or any other person as committee of the estate of any patient; but the Supreme Court shall not appoint any person other than the Public Curator as committee of the estate of any such person unless it is proved to the satisfaction of the Court that there is some sufficient reason why such person should be so appointed in preference to the Public Curator. Any such person so appointed must give the necessary security and render proper accounts to the Public Curator of the administration of the estate. The Public Curator can on behalf of a patient make application to the Court under the Testators Family Maintenance Act of 1914. Due provision is made for the collection from prescribed relatives of the patient of sums for his maintenance. Certain indemnity provisions are prescribed. Reciprocal provisions are also enacted relating to persons residing and orders and declarations made elsewhere than in Queensland (which provisions follow in the main Victorian legislation). Wide power is given to the Governor in Council to make regulations in respect of the general administration of the Act.

Salaries.—Act No. 23 repeals the Salaries Act of 1930 (providing for a scale reduction in the wages and salaries of Crown employees) with the relevant provisions under the Financial Emergency Acts. As now the Industrial Court under the Industrial Conciliation and Arbitration Acts has complete jurisdiction over Crown employees who are members of Unions, the Act of 1930 has hence become exhausted. Necessary saving clauses are inserted, providing that existing salaries shall continue, subject, in the case of an employee under the ambit of the Industrial Court, to any direction of the Court, and in the case of employees not within such ambit, subject to directions of the Governor in Council.

Friendly Societies.—Act No. 25 deals with four matters. In the first place it requires a friendly society with a central body and branches, and in some cases sub-branches or lodges to be audited by a certified auditor under the Trust Accounts Act. The measure permits of a friendly society to become an approved society under the Commonwealth National Health and Pensions Act of 1938. Such society is permitted to make advances out of its funds for preliminary expenses in connexion with its application to become an approved society, and such expenses shall be recouped to the extent of funds made available by the National Insurance Commission. It is provided also that a society shall not make any payments from its benefit funds, other than for a purpose for which the benefit fund was established, without the approval of the registrar, who may also require a recommendation of an actuary before grant of approval. Lastly, the Act definitely states that friendly societies' dispensaries may trade generally with the public as pharmaceutical chemists, and hence such dispensaries are not restricted to supplying members of friendly societies or their kindred.

Fair Rents.—The original Fair Rents Act of 1920 had for its object to provide for the determination of fair rents of dwelling-houses by means of the constitution of a Fair Rents Court. The Act allowed a lessor or lessee (who pays in full his rent) to apply for a determination of the Fair Rent. This amending measure (No. 26) enacts that if a landlord desires to increase the rent of a dwelling, he must apply to the court for a determination. Otherwise, such landlord will be liable to prosecution as for an offence.

Milk Supply.—The object of Act No. 27 is to provide for the regulation and control of the treatment, supply, sale and distribution of milk and cream for consumptiom or use in prescribed districts; to constitute Milk Boards for such districts, and to prescribe their jurisdiction powers and authorities. The Act has been applied to the Brisbane Milk district which is comprised of the boundaries of the Greater Brisbane area. It will be extended to other districts as from time to time proclaimed.

Primary Producers' Organization and Marketing.—The main object of Act No. 28 is to reconstitute the Council of Agriculture on purely a "commodity basis." In other words, this Council shall be constituted by the Director of Marketing and representatives from every Board constituted under the Principal Act in reference to a commodity, also the Wheat Board under the Wheat Pool Acts, the Committee of Direction under the Fruit Marketing Organization Acts, and the Milk Board under the recent Milk Supply Act. The Minister for Agriculture shall also be a member of the Council. Further powers are given to Commodity Boards in that any such Board shall be concerned with the preservation, expansion and economic well-being of the industry which the Board represents,

and such Board shall be the medium of communication between the Government, Council of Agriculture and persons engaged in or associated with the particular industry concerned. All local producers' associations formed under the Principal Act are dissolved, except those which may have been registered as co-operative associations under the Primary Producers Co-operative Associations Act.

Backward Persons.—Act No. 30 is complementary of the Mental Hygiene Act, and deals with backward persons; such person being defined as a person other than a mentally sick person as defined in the Mental Hygiene Act, the development of whose mind has been arrested or is incomplete, and who in consequence is incapable of adapting himself to the normal environment of his fellows in such a way as to maintain existence independently of care, treatment or control. A Backward Persons' Survey Board shall be appointed, consisting of the Director-General of Health and Medical Services as Chairman, the Director of Education and the Director of Mental Hygiene. This Board will make a survey of backward persons in the State, and upon the completion of the survey shall classify such persons and submit a report to the Minister with recommendations as to classification, education and/or care treatment and control. Power is also given to the Governor in Council to establish a psychiatric clinic for the purpose of general investigation. A Director of Psychiatry may also be appointed who shall, subject to the Director of Mental Hygiene, have the control and management of the clinic. The rest of the measure follows the principles laid down in the Mental Hygiene Act, and certain of the provisions of such Act are *mutatis mutandis* applied.

Legitimation.—The principal Act of 1899 allowed the legitimation of children born before marriage on the subsequent marriage of their parents. However, that Act provided that nothing therein shall have the effect of legitimating any child if at the time of birth of the child there existed any legal impediment to the intermarriage of the parents of the child. This amending Act (No. 31), in the interests of the child, removes this impediment to legitimation.

Industrial Conciliation and Arbitration.—Act No. 32 amends the Industrial Conciliation and Arbitration Act in regard to working times in underground occupations. An Industrial Magistrate on remission may hear a claim for damages. Venue of hearing may be changed by consent of parties. Amendment was also made in the Profiteering Prevention Act, whereby the Commissioner of Prices may be either a member of the Industrial Court (other than the President) or any person other than such member who may hold office as Commissioner in conjunction with an office presently held by him. The Coal Production Regulations Acts were also amended to provide that the Chairman shall be a member of the Industrial Court, other than the President, and in price fixing such Chairman shall have and exercise all powers and authorities of the Commissioner of Prices under the Profiteering Prevention Act.

Wheat Stabilization.—Act No. 33 relates to the stabilization of wheat and certain wheat products. It is complementary of legislation passed by the Commonwealth and States after resolutions of Conferences of Premiers, the object being to enable a measure of stability to be obtained in the wheat industry by ensuring a fair and reasonable "home consumption" price for the wheat grower. The Act is read subject to the Commonwealth Constitution. A Flour Price Committee shall be ap-

pointed which shall have power and jurisdiction to fix the minimum price of flour. It shall be the duty of every person to observe such price. Usual machinery provisions deal with furnishing of returns, inspection of books, and evidentiary and penal enactments. The Governor in Council may from time to time arrange for the distribution to wheat growers within the State of any moneys granted to the State by the Commonwealth by way of financial assistance in accordance with the conditions subject to which moneys are granted. Wide order in council and regulation-making power is given to the Governor in Council to carry out the objects and purposes of this Act.

4. SOUTH AUSTRALIA.

[*Contributed by* E. L. Bean, M.A., LL.B., *Parliamentary Draftsman.*]

During the Parliamentary Session of 1938 the Parliament of South Australia passed forty-eight public Acts. They contained few new principles. There were the usual annual Acts relating to taxation and public expenditure ; a number of Acts amending in minor details the extensive system of governmental control exercised both by the State and by local governing authorities ; and a few enactments altering the Acts under which primary producers are financed and otherwise assisted by the Government. None of these demands any special comment. Of the remaining Acts the following are the more important.

Building Societies.—Building Societies Act Amendment Act, 1938 (No. 2411), empowers the Treasurer of the State to guarantee the repayment of moneys lent on overdraft to a building society by a bank or any approved lending institution. The system of borrowing money on overdraft guaranteed by the Government has two advantages to societies. The first is that the Government guarantee enables the society to borrow at rates of interest not much higher than those payable on Government securities. The other is that under the practice prevailing in this State in relation to overdrafts the society can borrow the exact amount required from time to time for financing the building or purchase of houses, and all moneys paid by the society into its bank account are immediately applied in reduction of the overdraft. The Treasurer is also empowered by the above Act to undertake to indemnify a society which makes loans to its members, exceeding 80 per cent. but not exceeding 90 per cent. of the value of the security offered, if the society suffers loss by reason of its having advanced money in excess of 80 per cent. of the value of the security. The Act also contains further provisions for winding up societies on the application of the registrar, for payment of the value of a deceased member's share to his nominees, and for the general supervision and control of societies.

Business Agents.—The object of the Business Agents Act, 1938 (No. 2420) is to license and control persons who act as agents for the sale of businesses. Every business agent must be licensed annually by the local court nearest to his place of business. Before receiving a licence he must satisfy the court as to his character and financial position. Any person objecting to the grant of a licence on the grounds of the character, conduct or financial position of the applicant may be heard by the court in opposition to the grant of a licence. Every licensed agent must file a bond or securities to protect his clients against loss arising from his dishonesty or misconduct.

The Act also provides that regulations may be made for regulating or controlling any specified classes of servants or agents of business agents, for example, salesmen.

Crown Lands.—The Crown Lands Act Amendment Act, 1938 (No. 2408) imports a new principle into the laws governing the settlement of Crown lands. In the past the Government has been content to subdivide Crown lands into blocks and allot the blocks to settlers, leaving each settler to proceed with the clearing and cultivation of his land in the best way he could. It is now apparent, however, that virgin land can be cleared most cheaply and efficiently by the use of large and expensive engines and machines of such size and cost that no individual settler could reasonably afford to buy them. It is proposed, therefore, that the Government will procure the engines and machines and that when Crown lands are allotted the Government shall have power to make agreements with the intending settlers under which the Government will agree to clear and prepare the land for pasture, and the settlers will agree to pay the Government for the work. A settler must pay in advance in cash one-quarter of the cost of the work to be done for him, and the balance will be treated as a loan. The Act embodies the necessary statutory provisions to carry out this scheme. It applies only to land which the Director of Agriculture certifies can be made suitable for pasture by clearing and cultivation.

Highways.—The Highways Act Amendment Act, 1938 (No. 2388) restores, with slight modifications, a principle which was in force before the year 1930, but has since been in suspense, namely, that the proceeds of the fees and taxes imposed on horse-drawn vehicles, motor vehicles and drivers of motor vehicles must be paid into the Highways Fund and used solely for the construction and maintenance of roads.

Betting.—The Lottery and Gaming Act Amendment Act, 1938 (No. 2417) reconstitutes the Betting Control Board and enacts a number of provisions for the further regulation and taxation of betting.

The old Betting Control Board of five members is abolished and a new board of three members is constituted. The new board is charged with the duty of controlling betting "in such a manner as is reasonably consistent with the welfare of the public generally and the interests of persons and bodies liable to be affected thereby." The issue of totalisator licences, formerly a matter for the Commissioner of Police, is entrusted to the board.

The turnover tax on money wagered with bookmakers is reduced to a flat rate of 1 per cent. It was formerly 2 per cent. The stamp duty on betting tickets issued by bookmakers is also reduced to a flat rate of one halfpenny per ticket. This duty was formerly at the rate of one halfpenny on tickets for bets not exceeding ten shillings and threepence on tickets for bets in excess of ten shillings. The amount of the duty is calculated by reference to the amount payable by the "punter." There is a new betting tax in the shape of a winning bets tax at the rate of threepence in the pound on all winnings in excess of five shillings. The proceeds of the turnover tax and the winning bets tax are divided between the racing clubs and the Treasury. The whole of the stamp duty goes to the Treasury.

The Act also contains some new penal and evidentiary sections aimed at more effectively preventing illegal betting.

Matrimonial Causes.—The Matrimonial Causes Act Amendment Act, 1938 (No. 2428) reduces the period of desertion, which entitles a married person to divorce, from five years to three. It also provides a new ground of divorce, namely, that the spouses have lived apart pursuant to a judicial separation or separation order for five years.

Police.—The Police Act Amendment Act, 1938 (No. 2399) abolishes the obligation, formerly resting upon municipal and district councils, to contribute to the Treasury an annual sum towards the maintenance of foot police.

It also provides that regulations may be made enabling a person reported by a member of the police force for the alleged commission of any offence prescribed by the Governor by regulation, to pay a sum not exceeding ten shillings by way of expiation, and thereby to secure immunity from further proceedings. The offences which may be prescribed are : (*a*) offences against any Act administered by municipal or district councils ; (*b*) offences against any regulation made under any such Act ; (*c*) offences against any by-law of a municipal or district council.

Road Traffic.—The Road Traffic Act Amendment Act, 1938 (No. 2416) is a long amending Act containing many amendments of the road traffic laws. The principal amendments are as follows : (*a*) Primary producers having two or more separate parcels of land worked together are allowed to drive unregistered motor vehicles on roads between those parcels ; (*b*) motor vehicles of consular officers *de carrière* may be registered without fee ; (*c*) limited drivers' licences may be issued to aged or infirm drivers, restricting the areas within which or the types of vehicle which they may drive ; (*d*) additional side lights are required on motor vehicles more than six feet six inches wide ; (*e*) increased penalties are prescribed for the offence of driving whilst under the influence of liquor or drugs ; (*f*) the Commissioner of Police is empowered to erect " stop " signs or " slow down " signs at junctions and intersections of roads and it is made an offence to fail to comply with the duty indicated by the sign ; (*g*) the Railways Commissioner is empowered to erect " stop " signs at level crossings.

Workmen's Compensation.—The Workmen's Compensation Act Amendment Act, 1938 (No. 2427) provides for establishing a scheme for compensating workmen who die or suffer total disablement from silicosis, or who are suspended from employment because they suffer from that disease, or because their continued employment would be dangerous. The scheme of compensation is to be drawn up by the Treasurer of the State. The compensation will, like other compensation to workmen, be payable by the employers. The employers will not be compelled to insure against their liability for such compensation, but will have to contribute into a compensation fund to be established under the scheme.

The amount of compensation payable for silicosis will be the same as that payable for death or disablement under the ordinary provisions of the Workmen's Compensation Act. Every scheme must be laid before Parliament, and may be disallowed by resolution of either House.

5. TASMANIA.

[It is hoped to publish the review in the next issue.]

6. VICTORIA.

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.B.]

The legislative output of the Second Session of the Thirty-third Parliament was heavy. The total of Acts passed was only three short of the century (Nos. 4534–4630). That total includes an unusually large proportion of purely local concern. A general interest, however, may not unfairly be found to reside in the sixteen measures dealt with below.

Gold Buyers.—No. 4560 repeals and consolidates with amendments the previously existing Gold Buyers Acts. The chief alterations it introduces into the law lie firstly in new provisions for the licensing of gold refiners and of gold smelters (the latter substantially in place of the licensing of gold assayers) and with respect to the licensing of companies and firms; and secondly in the bringing of a well-established part of administrative machinery into operation in this particular activity, namely, appeals to general sessions from decisions of petty sessions revoking or refusing to renew certain licences.

Warehousemen's Liens.—No. 4562. The model for this measure is largely to be found in the New South Wales Act of the same title (No. 19 of 1935). Warehouseman is defined to mean a person lawfully engaged in the business of storing goods as a bailee for hire or reward, and the Act provides that every warehouseman shall, subject to the giving of certain notices to interested parties, have a lien for the amount of his warehousing charges on goods deposited with him for storage. To enforce this lien he is permitted, subject to conditions such as notices and advertisement, to sell such goods. This remedy is in addition to any other he might possess, for any other lien power of sale or right which a warehouseman possesses apart from the Act is expressly declared to be unaffected.

Slum Reclamation and Housing.—No. 4568 is divided into six parts. Part I amends the provisions of the Housing Act 1937 (No. 4531) relating to the Housing Commission and its members, information and returns, and accounts and finance. Part II provides for the demolition or reconditioning of houses unfit for habitation. It empowers the Commission to make advances to owners to recondition such houses, gives protection to trustees who comply with any direction of the Commission under this Part; prohibits the occupation of cellars as dwellings; and empowers the making by the Governor in Council on the recommendation of the Commission of regulations as to building standards and housing conditions. Part III provides for the declaration of reclamation areas and the powers of the Commission as to the replanning, subdivision and improvement of such areas. Part IV empowers the Commission to provide houses for persons of limited means and provides that in leasing such houses preference shall be given to certain persons. This Part is completed by giving to the Governor in Council power to make regulations as to determining the rental of such houses and generally as to their management, regulation and control. Part V empowers the adoption by the Governor in Council, after consultation by the Commission with municipal councils, of schemes for the future development of municipal districts; and Part VI contains miscellaneous provisions relating *inter alia* to the acquisition of land and compensation, the co-operation of the

Commission with public authorities, accounts audits and reports, the enforcement of the Act, and offences and legal proceedings.

Police Offences (Obscene Publications).—No. 4573 is an amending Act which has as its object the tightening up of the law relating to the keeping, sale, publication and distribution of obscene and indecent literature. To this end a wide definition is given to the word obscene so as to include " (*a*) tending to deprave and corrupt persons whose minds are open to immoral influences ; and (*b*) unduly emphasizing matters of sex or crimes of violence " (*cf.* the definition in the Commonwealth Customs Regulations, Statutory Rules No. 4 of 1938) ; and increased powers of search are given to the police by facilitating the issue of a special warrant. Power to order destruction of obscene publications is extended, and penalties are substantially increased.

Factories and Shops.—No. 4578 has within its purview the regulation of the hours of dealing in two distinct commodities. First, it provides for the earlier closing of garages, or—to use the legislative phrase—" shops for the sale of motor spirit, oil or motor accessories," but so that in a case of emergency (which a traveller could not reasonably have been expected to foresee) it is made lawful to sell those articles within the prohibited hours upon the intending purchaser supplying certain information and verifying the same by his signature. Secondly, the Act alters the hours and days on which aerated waters, cordials or ice cream may be carted.

Dried Fruits.—No. 4594 is one of the consolidating Acts of the session. In its process of consolidation it introduces some amendments which are based in the main on New South Wales and South Australian legislation. The chief amendments are two ; one, which places the annual registration of packing houses in the sole discretion of the Governor in Council ; the other, which extends the franchise for elections of members of the Board.

Wheat Products.—No. 4595. This is a price-fixing Act. It is part of a general legislative scheme designed to carry into effect an agreement made between the Commonwealth and the States to ensure wheatgrowers a payable price for their wheat. Its provisions to this end may be arranged into three groups : (i) It provides for the appointment of a Wheat Products Prices Committee and prescribes its functions and procedure. This committee is made to consist of five members, an impartial chairman and four representatives, one from each interested section of the community, viz. : flour millers, master bakers of bread, wheatgrowers and consumers. Its functions are advisory. (ii) It empowers the Governor in Council to fix the minimum price for the sale by manufacturers of the substances included in the liberal interpretation of flour and the maximum price for the sale of the substances included in the interpretation of that word and of wheat products. (iii) It provides for the distribution to wheatgrowers in Victoria of moneys granted to the State by the Commonwealth for that purpose. The inevitable power to make regulations concludes the Act.

Closer Settlement.—No. 4597 repeals the previous Closer Settlement and allied Acts, and reorganizes the administrative basis on which those Acts rested. It dissolves the Closer Settlement Commission and appoints the Board of Land and Works (a permanent government department) successor in law of the Commission, but provides for the appointment of Settlers Inquiry Committees and their powers and proceedings. For the

existing liability of closer settlers it substitutes new liabilities, with provision in case of settlers who are Crown lessees of new leases. The Act contains various provisions with respect to the transfer, surrender, mortgage, forfeiture, etc., of closer settlement leases and with respect to the disposal by the Board of closer settlement land. Financial and sundry general provisions complete the scheme.

Companies.—No. 4602 is the most comprehensive Act of the session. It represents the consummation of reformative effort which was first attempted ten years previously. At the time of the general consolidation of the Victorian statutes in 1928, formal amendments only were introduced into the Companies Act. The English Bill which was to emerge as the Companies Consolidated Act, 1929, 19 & 20 Geo. V, c. 23, was then foreshadowed, and, though imperfections in the local law were acknowledged, the passing of the English Act came inopportunely for its reforms to be availed of by the Victorian Act. For one reason and another, delay attended upon the efforts to accomplish this object, and although the Bill was on more than one occasion introduced and discussed in the House it was not till 1938 that it was finally enacted.

The present Act may be formally described as one which repeals and consolidates with amendments the Companies Acts. It has five parts, and a sixth part, dealing with investment companies, has been added by the Investment Companies Act, No. 4621 (*infra*). Part I (Trading Companies) reproduces with numerous important amendments the same Part of the Companies Act, 1928. The most important of these are incorporations of provisions which appear in the English, New South Wales and South Australian Companies Acts. These include the following topics: the protection of rights of preference shareholders; provision for the appointment by companies of trustees for debenture holders; provision for the lodging of notices of intention before the registration of proprietary companies and also before the registration of charges, and for caveats; the modification of the prerogatives of certain Crown instrumentalities as to priorities in winding-up; the requirement of the disclosure by directors of conflicting interests, etc.; many new requirements as to accounts of companies, including holding and subsidiary companies; the inclusion of stricter provisions as to company prospectuses; and further requirements as to foreign companies. The whole Part has been redrafted to follow the form of the English Act of 1929.

In Part II (No Liability Mining Companies) the most important amendments are the restriction of the Part to no liability mining companies, by which mining companies desiring to be incorporated with limited liability are required to register under Part I, and provision for prospectuses of mining companies. Part III (Life Assurance Companies), Part IV (Dairying Companies) and Part V (Unclaimed Moneys) are consolidated with slight amendments from the corresponding parts of the local Act of 1928.

Industrial Life Assurance.—No. 4608 follows on the recommendations made by a Royal Commission appointed to inquire into this subject. It is an Act full of formulæ; but in its general lines it prescribes the circumstances in which industrial life assurance policies may be avoided for non-payment of premiums and those in which paid-up policies are to be granted to the holders of such policies; the method of ascertaining the amount of the paid-up value of such policies, the circumstances in which holders of such policies are entitled to surrender their policies and receive

a surrender value therefor and the method of calculating such surrender values.

Cattle Breeding.—No. 4610 provides for the castration or slaughter without compensation of bulls not conforming to a prescribed standard, and contains sundry machinery provisions relating to inspection, notice, appeal, etc.

Game (Koala Protection).—No. 4615 is a short Act which increases the penalties for destroying, molesting, selling, having in possession, etc., koala bears. Everyone will hope that it attains its purpose of affording greater protection to these charming specimens of native fauna.

Medical.—No. 4617. This, too, is a short Act. It is designed to give protection to local medical practitioners (both *in esse* and *in posse*) from what the profession apprehends to be unfair competition occasioned by the influx of foreign refugee doctors. The decision of the High Court in *Meyer* v. *Medical Board of Victoria*, [1937] 58 C.L.R. 62, supplies the immediate motive for the measure, which amends the conditions for registration of medical practitioners on qualifications acquired outside Victoria, so as to limit the recognition of such qualifications to those acquired in countries where reciprocity prevails. Those whose penchant is for piquant comparisons may turn to the decision of the same court given in relation to a similar question in the legal profession : *Kahn* v. *Board of Examiners*, [1939] 62 C.L.R.

Investment Companies.—No. 4621. This Act effects two objects. It prohibits certain companies from using the word " Trust " in their names, viz., companies which have issued or issue any invitation to the public to subscribe for any of their shares or debentures. Secondly, it adds a sixth part to the Companies Act, No. 4602 (*supra*), and therein regulates borrowing, investing and underwriting by investment companies and provides special requirements as to their articles, prospectuses, balance-sheets and accounts.

Money-lenders.—No. 4625 consolidates and amends the existing Act. Its method is to repeal the Money Lenders Act, 1928 (No. 3740), and to re-enact it with new provisions based mainly upon the English Money-lenders Acts. The most important of these changes consist in strict requirements for the licensing of money-lenders and the prohibition of the recovery by unlicensed money-lenders of money lent ; in requirements as to the form of money-lenders' contracts, advertisements by money-lenders and information to be supplied by money-lenders. Further, the charging of compound interest and other charges other than simple interest by money-lenders, and the publication of names of parties to proceedings reopening money-lending transactions, are both alike prohibited. Lastly, the burden of proof in the last-mentioned proceedings where the interest payable exceeds a prescribed rate is charged by the Act, which is completed by requirements as to assignments of money-lenders' contracts and miscellaneous machinery provisions.

Fair Rents.—No. 4626 establishes Fair Rents Courts, being a court of petty sessions consisting of a police magistrate sitting with or without justices. Such a court is empowered to determine the fair rent of certain dwelling-houses, and provision is made for the enforcement of fair rents so determined. The Act is to continue in force for five years. The Queensland Act of the same title of 1920, 10 Geo. V, No. 31, has been largely used as the model.

7. WESTERN AUSTRALIA.

[*Contributed by* C. E. Stow, Esq.]

Fifty-two Acts were passed during 1938. Of these the more important are summarized below.

Local Courts.—This amendment (No. 13) includes, amongst the goods protected from seizure under a warrant of execution, household furniture to the value of £10.

Lights (Navigation Protection).—The Authority controlling any port or harbour is empowered by No. 16 to take certain steps if it is of the opinion that any light, which is used between sunset and sunrise, is likely to be mistaken for, obscure, conflict with or interfere with the effectiveness of a lighthouse beacon or other harbour light. The Authority may require the owner of the offending light to extinguish, remove or modify it or to refrain from using it during specified hours or to do or refrain from such other things in relation to the light as the Authority may direct. The Act provides a penalty for non-compliance with the requirements of the Authority and in addition it empowers the Authority to cause the requirements to be carried out and to recover the expense from the owner.

The failure of an owner of an offending light to comply with the requirements of the Authority constitutes a tort in the nature of a nuisance so as to enable recovery of damages resulting to a ship from such failure.

Wheat Products (Prices Fixation).—Act No. 17 is part of the machinery in connexion with a scheme for the provision of assistance to wheatgrowers. The Commonwealth Parliament has passed several Acts for the purpose of obtaining funds by taxation of wheat and flour for home consumption, and these funds are paid to the States for distribution by way of bounty amongst wheatgrowers. The State Act is necessary to enable the internal price of flour, bread and other wheat products to be fixed, a matter which is outside the constitutional powers of the Commonwealth. The Act empowers the Governor, on the recommendation of the Wheat Products Prices Committee, to fix, and from time to time to vary, the minimum and maximum prices at which flour and wheat products may be sold in the State or any specified part thereof. The prices fixed are not to apply to any substance sold for export from Australia. Penalties are provided in connexion with sales at more than the fixed maximum prices or less than the minimum prices and in case of a sale at more than the maximum price the vendor is liable to refund to the purchaser the amount paid in excess of the maximum. The Governor may, on the recommendation of the Committee, allot quotas to manufacturers of flour and no manufacturer may sell, within the State for local consumption, any flour manufactured by him in excess of his quota. The Act provides for the setting up of a committee known as the Wheat Products Prices Committee, the main function of which is to make all necessary inquiries and to submit recommendations to the Governor. The committee has the powers of a Royal Commission.

The Governor is authorized to arrange with the Governor-General of the Commonwealth for the distribution to wheatgrowers in the State of any moneys granted to the State by the Commonwealth by way of financial assistance.

Amendments Incorporation.—Closely following a South Australian Act of 1937, Act No. 22, which repeals the Amendments Incorporation Act, 1923, contains provisions enabling the reprinting of statutes in consolidated form without the necessity of re-enactment. In any reprint made under the direction of the Attorney-General or Minister for Justice : (*a*) the short title may be altered to indicate the respective years in which the principal Act and the latest amendment were passed, (*b*) references to Acts which have been replaced may be inserted, (*c*) references to bodies or authorities the names of which have been changed by enactment may be altered, (*d*) marginal notes may be altered where requisite, (*e*) errors in spelling or numbering may be corrected and (*f*) all necessary renumbering of divisions, parts, sections and schedules may be carried out.

An Act so reprinted is to receive judicial notice and to be deemed to be an Act of Parliament.

Interpretation.—The Interpretation Act, 1918, directed that Statutory regulations should be laid before both Houses of Parliament within fourteen days of publication, or if Parliament is not in session, within fourteen days after the commencement of the next session, and that such regulations should cease to have effect if either House should disallow them within a certain time. Statutory provisions do not, however, eliminate all risk of oversight, and it has now been considered advisable to amend the principal Act by No. 28 to provide that Regulations not laid before Parliament as directed in the principal Act shall cease to have effect.

Superannuation.—Act No. 34 provides for inauguration of a fund for superannuation and family benefits to State Government employees and certain dependants. It is based on the Commonwealth Superannuation Act, 1922–4, the provisions of which are followed very closely in the State Act. One important departure is that the State permits each employee to elect whether he will become a contributor and receive benefits under the Act. Contributions to the fund are to be made at prescribed rates, by means of deductions from salaries and wages, and the State is to contribute a prescribed amount in respect of each contributing employee. A Board is set up for the purposes of the Act with powers of control, supervision and investment of funds.

The benefits are to take the form of pensions payable to contributors who retire on attaining the maximum retiring age, or on the ground of physical or mental incapacity and, with some exceptions, pensions payable to the widows and young children of deceased contributors. The Act is a lengthy one containing many incidental provisions of a machinery nature.

State Government Insurance Office.—The passing of Act No. 39 brings to an end an unhappy state of affairs which has existed for many years. The State Government established a State Insurance Office, apparently with the intention of enabling employers to insure at reasonable rates against certain risks under the Workers' Compensation Act, the covering of which did not seem to be attractive to insurance companies, and the Office, which turned out to be quite a successful business concern, expanded the scope of its operations. It was generally agreed that the venture directly contravened the provisions of the Trading Concerns Act, but although efforts to have it legalized were rejected by Parliament no action was taken to prevent the continuance of the operations. Parliament has now accepted what can be regarded as a compromise

measure. The operations of the Insurance Office as from its inception have been validated and the Office has been given power to carry out contracts and fulfil commitments already entered upon. The Government has been authorized to carry out insurance business in relation to risks under the Workers' Compensation Act and the Employers' Liability Act and employers' liability to employees at common law. The Office has also been authorized to undertake liability to pay compensation in accordance with the Workers' Compensation Act to employees who are outside the scope of that Act in respect of injury suffered during employment.

Companies.—This amendment (No. 40) of the Companies Act prohibits any person from going from house to house or from place to place offering shares in companies for sale. The prohibition does not apply in the case of shares in a company to which the Registrar of Companies has granted a certificate of exemption. Such certificate is not to be granted unless the Registrar is satisfied that it is necessary for local or special reasons to grant it. The Act also contains a prohibition against the making of any offer in writing, to any member of the public, of any shares for sale unless the offer is accompanied by a signed statement in writing containing certain prescribed particulars. The prohibition does not apply to a person whose ordinary business is to buy or sell shares, nor to a person who makes offers only to persons with whom he has been in the habit of doing regular business in the purchase or sale of shares. The written statement referred to must contain, *inter alia*, the following particulars: (*a*) whether the person making the offer is acting as principal or agent and if as agent the name and address for service of his principal; (*b*) the date and place of incorporation of the company and the address of its principal office in the State; (*c*) the authorized share capital of the company, the amount which has been issued and the classes into which it is divided; (*d*) the dividends paid by the company on each class of shares during the previous three years; (*e*) whether the shares are quoted on any stock exchange. The statement must not contain any matter other than the particulars required by the Act, and it is to be in characters not less large or less legible than eight-point face type. Penalties are provided for breach of the Act, and if the offender is a company every director and officer concerned in the management of that company is to be deemed guilty of the like offence unless he proves that the offence occurred without his knowledge or consent.

Bread.—As a result of Act No. 44 all bakehouses must now be licensed with a central authority and no unlicensed bakehouse may be used or occupied. No licence can be granted unless the bakehouse in question conforms with the conditions prescribed by regulation. An appeal against the refusal of the authority to issue a licence lies with the nearest stipendiary magistrate. The Act also provides that every vehicle used for the conveyance of bread from the bakehouse where it was baked shall have marked thereon the name and address of the proprietor of the bakehouse and the word "Baker" or "Bakery," unless the vehicle belongs to a purchaser who takes delivery of the bread at the bakehouse.

Municipal Corporations.—In Act No. 49 an endeavour has been made to bring the statutory law relating to local government in urban areas up to date and more into line with modern conditions. Generally speaking, the amendments are of the machinery provisions, to overcome anomalies and weaknesses which have in the course of time become

apparent, but the following provisions may be noted as substantive alterations of the law :

A municipal council may with the approval of the controlling minister pay the expenses of one delegate appointed to attend a municipal conference as the representative of such council. The power of the council to make by-laws in respect of hawking and moveable or temporarily fixed stalls is extended to cover all goods, wares and merchandise instead of covering certain specified foodstuffs as heretofore. A council is also empowered to make by-laws prohibiting or regulating the making of noises for advertisement purposes in any street or public place or upon private property adjacent to the same, and for permitting and regulating the planting of lawns and gardens in streets by the owners or occupiers of premises abutting thereon, and prohibiting the riding or driving of animals or vehicles over such lawns and gardens. Power is also given to regulate by by-law the construction and use of verandahs erected or to be erected over any street and to prescribe for the removal, at the expense of the owner, after a maximum period of ten years from the date of the commencement of the Act, of verandahs or balconies supported on posts and projecting over a public footpath, whether erected before or after the commencement of the Act. Every applicant for approval of a plan for a new building must lodge a statement in writing setting out the purpose for which the building is intended to be used, and the building cannot thereafter be used for any other purpose without the consent of the council, but there may be an appeal to the Minister against the council's refusal to consent. Councils are authorized to use their funds for the erection and maintenance of camps for letting or leasing at any beach or pleasure resort. Certain lands belonging to any council may be set aside for use exclusively as children's playgrounds or grounds for women. An appeal to the local court against the dismissal by the council of an appeal against a rating assessment must be decided on the evidence brought at the original appeal without further evidence unless the local court otherwise orders by special leave. Provision is made enabling the Minister to waive the requirements of the Act in connexion with sinking-fund payments to cover loans made by municipalities in cases in which the proceeds of the loan have been invested in reproductive undertakings the income of which is sufficient to cover the ordinary interest and sinking-fund contributions. It is also provided that the contract for repayment of a loan may contain provision for repayment of the principal and interest by half-yearly or other periodical instalments in lieu of the usual provision for repayment of the principal in a lump sum at the end of the fixed period and for formation of a sinking fund to finance repayment. Municipalities may now use up to 10 per cent. of their ordinary revenue for certain additional purposes including the construction of aviation landing-grounds, pleasure resorts and other works in other districts (if those works will benefit persons residing in the municipal district), and the provision of all forms of tourist propaganda in connexion with any tourist resort within the municipal district.

Workmen's Compensation.—This amendment (No. 50) of the Workers' Compensation Act provides that payment by the employer of any compensation or proceedings taken by the worker to recover compensation under the principal Act, whether successful or otherwise, shall not operate as a bar to proceedings by the worker to recover damages from another person liable to pay damages in connexion with the injury. If the

worker is successful in proceedings to recover damages the employer's liability for compensation is to cease to the extent of the damages actually recovered and any compensation already paid is to be refunded to the employer out of the damages actually recovered. An employer who has paid compensation may take steps to enforce an unsatisfied judgment obtained by the worker for damages upon giving the worker an indemnity against costs. If, however, the employer recovers more than the amount of compensation paid by him the excess amount is to be repaid to the worker. The Act also provides for payment by the employer of all reasonable travelling expenses, together with the sum of six shillings per day to cover the cost of meals and lodging, in cases in which the worker is required by the employer to travel for the purpose of submitting himself for medical examination or treatment. In considering whether an agreement for a lump sum settlement under the Act should be registered the Clerk of the Court can now take into consideration the question of the adequacy of the amount proposed to be paid. When redemption of weekly payments is ordered, the lump sum to be paid is to be assessed upon a calculation by the Government actuary of the present value of the balance of compensation still payable or likely to be payable. The benefits which an injured worker can recover in addition to ordinary compensation are extended to include the cost of artificial teeth, artificial eyes and spectacles when necessary.

8. PAPUA.

[*Contributed by the* Hon. Mr. Justice Gore.]

Sixteen Ordinances were passed during the year. Of these the following are worthy of note.

Mining.—No. 1 consolidates and amends the law relating to mining. Some new provisions are included which are of interest. A provisional proclamation of goldfields may now be made by the Warden upon the report in writing by the person claiming discovery. Previously it was necessary for the Warden to view the area before a proclamation could be made. Renewals of gold-mining leases may be made for more than one term of twenty-one years. The Crown may take possession of a mining lease surrendered, forfeited or determined by any breach of a condition, without suit or process, by posting a notice outside the Warden's office publishing the fact. A lease instrument lost or destroyed may be replaced by the Director of Mines by the issue of an official copy if the Director is satisfied as to the truth and *bona fides* of its loss or destruction. Statements on oath or by statutory declaration made by the holders and any other person having knowledge of the circumstances must be furnished. The royalty on gold won on land alienated from the Crown is abolished. Power is given to transfer a granted application for a Miner's Homestead Lease before the issue of the lease instrument. A new part (Part X) is included, dealing with applications for permission to construct aerial ropeways, and the power to make regulations respecting such applications.

Offences.—No. 8 gives the constabulary power by day or night to search canoes without warrant.

Prisons.—No. 11 repeals the law relating to prisons and re-enacts it with some alterations. The only important alteration is the abolition of reduced diet, shot drill and pack drill as punishments for prison offences.

Petroleum.—No. 13 repeals all existing petroleum search legislation and presents some novel features.

Henceforth there will be no restriction as to the nationality of persons who may be applicants for holdings under the Ordinance, and thus foreign capital can be employed in the search, but provision is made for pre-emption of the oil in the event of emergency and for the satisfaction of Australian oil-consumption requirements first.

The forms of tenure under the new Ordinance are as formerly, namely permit, licence and lease, but there are material differences in regard to area, period and the rights of applicants to receive them.

The maximum area of a permit will be 10,000 square miles, which is half the former maximum, but under certain circumstances this maximum may be exceeded. Its period is still one year, subject to extension, but the original term plus extensions must never exceed ten years in the aggregate. When a permittee obtains a licence of part only of the permit area, he is restricted to three extensions of 12 months each of the balance of the permit area.

A permittee is entitled to an exclusive right to prospect upon his permit area and has certain search obligations. In the event of petroleum being discovered upon his area, a permittee is prohibited from disposing of it until he has obtained a lease.

A permittee who has complied with the terms of his permit obtains a preferential right to a licence of the land the subject of his permit.

Existing permits are continued under the new Ordinance, but upon application for renewal the permittee may be required to surrender any of the area in excess of 10,000 square miles.

The maximum area of a licence is 2,500 square miles, which contrasts sharply with the former maximum of 100 square miles and in certain circumstances 250 square miles. Provision is made for exceeding the ordinary maximum upon certain conditions.

The period of a licence remains two years, subject to extensions of twelve months each, but so that the total term does not exceed six years. Under the former Ordinance the extensions could not exceed in the aggregate three years.

The applicant for a licence must be the permittee of the area the subject of the application, and if the licensee carries out the terms and conditions required of him he has a preferential right to a lease should he apply for one.

The licence area may be in one or more blocks, subject to each block not being less than a certain minimum in size.

A rental of one shilling per square mile is payable for the first year of the licence, and for each subsequent year, except the last, the rent is increased by one shilling, the rent in the last year being fixed at 10s. per square mile.

A licence gives the licensee an exclusive right to make a detailed survey of the land and to make necessary tests to ascertain the presence of oil. The licensee is under certain obligations to diligently search and to test and keep samples obtained from the area. He is under a statutory duty to report the discovery of oil and is precluded from disposing of oil until he has obtained a lease.

When a licensee obtains a lease of part only of his licence area the balance remaining of the licence is reserved for three years or for the balance of the period for which the licensee could extend his licence

whichever is longer. During the period of reservation the reserved area may be exchanged for an equal area of lease area.

The maximum area of a lease is 500 square miles as contrasted with eight square miles or in certain circumstances twenty square miles, the area formerly available.

The period of lease is twenty-one years, but with provisions for renewals of like periods. A lessee must apply for renewal at least three months prior to the expiration of his lease.

Rent is payable by a lessee at the rate of £5 for each square mile for the first five years of the lease and for the next ten years at the rate of £10 for each square mile and then for every subsequent year at the rate of £15 for each square mile.

In this connexion it is interesting to note that a lease for twenty-one years of the maximum area would in rent produce £120,000.

Royalty is payable at the rate of 10 per cent. on the gross value of the crude oil at well head, but provision is made for the royalty not to be payable upon oil unavoidably lost or reasonably used for his own purposes by the lessee. Rent is set off against royalty payable in each year.

Only a licensee can be an applicant for a lease, and the application must be in respect of land included in his licence area. If the licensee faithfully complies with the terms and conditions of his licence, he has a preferential right to a lease.

A lease confers upon the lessee the exclusive right to conduct mining operations for petroleum on the land comprised in the lease and to erect buildings, tramways and construct dams, pipelines and other necessary works.

A lessee is under certain statutory obligations, including an obligation to drill and carry on work in accordance with good oil-field practice continuously.

Subject to certain conditions, a lease may be surrendered on six months' written notice. Cancelled leases may be sold by tender, and there is no appeal against cancellation.

It is to be noted that assignment of permits, licences and leases is prohibited unless with consent, and a company holding any permit, licence and lease is forbidden from acquiring any interest in another holding under the Ordinance except with consent.

Two bodies are constituted under the Ordinance to assist in the practical application of its provisions—the Petroleum Advisory Committee, which is purely to advise on scientific and technical matters arising under the Ordinance, and the Petroleum Advisory Board, the local body, whose functions will be purely advisory upon matters of administration.

Adequate provision is made for the cancellation of permits, licences and leases when the holder is in default, but the new procedure gives rather more opportunity to the holder to remedy his default and involves an inquiry by the Warden into the facts.

Finally, provision is made prohibiting the inclusion in prospectus, etc., of statements attributing opinions to the Minister, the Lieutenant-Governor or Government departments as to the possibilities of any areas.

Explosives.—No. 15 amends the Navigation Ordinance. Boats conveying more than fifty pounds weight of explosive substance must be in charge of a European unless with the consent in writing of the Treasurer.

Superannuation.—No. 16 provides that service performed after August 1, 1938, whilst under the age of twenty-one years shall not be

counted towards the term of service necessary to be completed so that an officer may retire on pension. Provision is made for extending the period during which an officer may take advantage of the provisions as to past service if it appears to the Lieutenant-Governor just and equitable. The provisions as to past service apply to officers who for some reason have not come under the Superannuation scheme and wish to do so. Officers may be excepted from the operation of the Superannuation Ordinance.

A new part (Part III A) is inserted providing for the admission of female officers to the benefits of superannuation. For the purpose of admission a female officer shall be entitled to count unbroken past service. Payment to the fund is allowed over a period. Payment must be completed before retirement. In the event of death before completion of payments, all instalments paid by a female officer are to be refunded to her personal representative. Upon the marriage of a female officer who has come under the scheme she shall resign, but all contributions made by her to the fund are to be refunded to her without interest. Female officers become subject to the same terms and conditions as male officers.

An important provision is inserted which preserves superannuation allowances from debts or claims whether the allowance is payable upon the death of an officer or otherwise.

9. NEW GUINEA.

[*Contributed by* GERALD HOGAN, ESQ., *Crown Law Officer.*]

Since the establishment of a Legislative Council in the Mandated Territory of New Guinea in May 1933, considerable progress has been made in the introduction of Ordinances of the Territory in substitution for the laws adopted by the Laws Repeal and Adopting Ordinance, 1921, and to fill gaps in the Territory law. Of the Ordinances passed in 1934, 1935 and 1936, the more important are summarized below.

1934.

Supreme Court.—The Judiciary Ordinance, 1934, changes the name of the principal Court in the Territory from " Central Court " to " Supreme Court." The judges of the Supreme Court hold office until the age of sixty-five years, unless sooner removed by the Governor-General for proved misbehaviour or incapacity. The qualification for appointment as a judge is that the appointee shall have practised as a barrister or solicitor for not less than three years, and be a barrister or solicitor of the High Court of Australia or of the Supreme Court of an Australian State or of the Territory of New Guinea, of not less than ten years' standing. A judge's remuneration shall not be diminished during his tenure of office.

Interpretation of Statutes.—The Ordinances Interpretation Ordinance, 1934, follows the lines of similar legislation in the British Empire.

Maintenance Orders.—The Deserted Wives and Children Ordinance, 1934, provides for the making of orders for the maintenance of deserted wives and children and for powers of enforcing such orders by recognizance, by attaching an annuity, by execution against goods, chattels, securities and rents, and by imprisonment in default of payment up to a period of twelve months. The court, in making an order for custody and support

of a child, must have regard primarily to the welfare of the child. The Ordinance also makes provision for the maintenance by fathers of children not born in lawful wedlock. Complaints may be issued without the evidence of the mother being corroborated, and corroboration of the mother's evidence is not necessary unless and until the father denies on oath the allegations of paternity, when corroboration is necessary in some material particular.

Legitimation.—The Legitimation Ordinance, 1934, applies the principle of *legitimatio per subsequens matrimonium* now generally adopted in British systems of law. The legitimation of an ex-nuptial child whose parents subsequently marry is not prevented by an impediment to the marriage of the parents at the time of the child's birth if the impediment is subsequently removed and the parents in fact marry. Provision is made for an ex-nuptial child or the mother of an ex-nuptial child to succeed on the intestacy of the other.

Evidence.—The Evidence Ordinance, 1934, follows the lines of English legislation, with several important exceptions. It is provided that every witness on both cross-examination and examination in chief may in any proceedings be asked whether he has made any former statement relative to the proceedings inconsistent with his present testimony, and if, after his memory is refreshed, he does not admit the former statement, proof may be given that he did in fact make it. The judge's permission to treat a witness as a " hostile witness " is not required. It is provided that a confession tendered in a criminal proceeding shall not be rejected by reason of a promise or threat, unless the court is of opinion that the inducement was in fact likely to cause an untrue admission of guilt to be made. Confessions made to clergy, and, in civil cases, communications to medical practitioners, except in matters of insanity or life insurance, are privileged.

Reports of Judicial Proceedings.—The Judicial Proceedings (Regulation of Reports) Ordinance, 1934, prohibits the publication of reports of judicial proceedings setting out any indecent matter or indecent medical, surgical or physiological details calculated to injure public morals and, in addition, in matrimonial causes, particulars other than the names, addresses and occupations of parties or witnesses, a concise statement of the pleadings, submissions and decisions of points of law, and the judgment and reasons.

Exception is made of the publishing to parties of documents required in the proceedings, of notices or reports by direction of a court, of *bona fide* series of law reports and of *bona fide* technical journals.

Divorce.—The Divorce and Matrimonial Causes Ordinance, 1934, follows in its general structure the legislation in force in Australian States. The grounds for divorce are: Adultery; Habitual cruelty for one year; Desertion for three years; Habitual drunkenness for three years together with habitual non-support in the case of a husband, or habitual neglect of domestic duties in the case of a wife; Imprisonment for three years under a commuted capital sentence or a sentence of at least seven years; A conviction during the previous year for attempted murder of, or for doing grievous bodily harm to, the other spouse; In the case of a husband, frequent convictions involving imprisonment for three years or over within the previous five years together with non-support; A conviction during the previous year for rape, sodomy, or bestiality; In the case of a husband, habitual and wilful failure during the previous three

years to pay to the wife maintenance ordered to be paid by any court, or agreed to be paid under any deed of separation. A married person who is domiciled in the Territory, and has been domiciled or resident there for two years at least, may present a petition on the above grounds.

A deserted wife whose husband was domiciled in the Territory at the time of desertion is deemed to retain her Territory domicile, notwithstanding a change of her husband's domicile. Similarly, a wife petitioning on the ground of non-payment of maintenance, whose husband was domiciled in the Territory when the order to pay maintenance or the agreement for separation was made, retains her Territory domicile, notwithstanding that her husband has acquired another domicile. A wife petitioning for divorce on any ground who has been living in the Territory for not less than three years immediately preceding the filing of the petition, and has such intention of residing in the Territory as would constitute a Territory domicile in the case of a single woman, and has been living apart from her husband for a period exceeding three years, is deemed to have a Territory domicile, and to have had that domicile for two years. A petitioner, whether husband or wife, may claim damages from an alleged adulterer, provided the adultery is not condoned and was committed within the previous two years. An alleged adulterer need not be made a party to the petition and served, unless damages or costs against the adulterer are claimed. However, except where the alleged adulterer is a party or the court otherwise directs, notice that the charge of adultery has been made must be served, and the alleged adulterer may intervene. No appeal to the High Court of Australia lies from a decree absolute, though the decree nisi may be appealed against. The Ordinance does not apply to marriages by native custom.

Dogs.—The Dog Ordinance, 1934, provides that a person who keeps or harbours a dog, or allows a dog to remain on his premises, is deemed the owner of the dog. A District Court may order the destruction of a dog which is dangerous and not kept under proper control. If a dog attacks any person, or any animal, and the person or animal is not a trespasser, the owner is guilty of an offence. A District Court (a court of summary jurisdiction) may order an owner to pay compensation up to £50 for actual damage occasioned by a dog, and in these proceedings proof of *scienter* or negligence is not required. The keeping of dogs in a specified area, or by a specified class of persons in a specified area, may be prohibited.

1935.

Currency.—The Currency Coinage and Tokens Ordinance, 1935, provides for a Territory coinage. The Administrator may issue silver, cupro-nickel and bronze coins. British, Australian and Territory coins are legal tender in the Territory, but a bank may not tender or pay in the Territory British or Australian coins other than gold coins. A Coinage Trust Fund with an upward limit of £100,000 has been established.

District Courts.—The District Courts Ordinance, 1935, makes extensive amendments to the legislation governing the jurisdiction and procedure of the District Court, which is the principal inferior court in the Territory. In general, the Ordinance simplifies the procedure, and gives the court a number of ancillary powers tending to make the work of the court more efficient.

Business Names.—The Business Names Ordinance, 1935, makes provision on the lines of English and Australian legislation for the registra-

tion of partnerships or persons who carry on business under a business name which does not consist of the true surname and Christian names or initials of each partner or person. A penalty is provided if a person required to register does not do so after a demand in writing has been made by the Registrar.

Native Labour.—The Native Labour Ordinance, 1935, repeals all previous native labour legislation, but substantially re-enacts much of it. Subject to the provisions of the Ordinance, a person shall not employ a native except under a contract. One of the exceptions is that a native not under the age of fourteen years, whose home is within the prescribed distance (at present, twenty-five miles) from the place where he is to be employed, may be employed without a contract. The term of a contract may not exceed three years. Desertion and offences by natives against discipline are punishable by fine or imprisonment, as are also offences by employers. The Ordinance and the Regulations under it enable the interests of native labourers to be safeguarded at every point, and at the same time give employers the necessary control over natives employed by them. Provision is made for the closing of areas to recruiting and for the return of native labourers to their villages at the expiration of the prescribed time.

Mines.—Owing to the large increase in the Territory of gold mining involving the use of machinery and of underground mining, an Ordinance providing for the regulation and inspection of mines and works was made in 1935. This Ordinance follows the lines of Australian legislation with necessary modifications due to Territory conditions, such as the employment of native labour. Provision is made for the holding of inquiries on the safety conditions in mines and works and on accidents occurring therein. Certain qualifications for managers and other responsible persons employed in mines and works are required. One section of the Ordinance makes the occurrence of any accident in a mine or works *prima facie* evidence of negligence on the part of the owner and the manager. Another section gives to a person employed in a mine or works, or to such a person's representatives, an action as for a tort committed by the owner, contractor or tributer of the mine or works, if the person is injured or killed as a result of the negligence of such owner, contractor or tributer, or owing to the non-observance of the provisions of the Ordinance (such non-observance not being solely due to the negligence of the person so injured or killed). Regard in estimating damages under this section shall be had to the extent (if any) to which the person injured or killed contributed by any negligence on his own part to the injury or death. It is provided that the Administrator in Council may make regulations providing detailed regulation of the conditions of work and safety in mines and works. Under this power the Mines and Works Regulations containing 374 regulations have been made.

Registration of Births, Deaths and Marriages.—An Ordinance in 1935 established a system of registration to suit local conditions and is substantially in accordance with modern legislation elsewhere. The provisions relating to the registration of births and deaths do not apply to natives.

Marriage.—The Marriage Ordinance, 1935, as amended by the Marriage Ordinance, 1936, provides for the form, celebration, etc., of marriages. It does not apply to any marriage both of the parties to which are natives. It prohibits the celebration of the marriage of a native with any person

other than a native without the written consent of the local administrative authority. Subject to a proviso where a native is a party to a marriage, marriage of a person under sixteen years of age is rendered void. Only a registered clergyman or a District Registrar may celebrate marriages.

Legal Practitioners.—The principal object of the Legal Practitioners amending Ordinance, 1935, was to introduce provisions governing the remuneration of barristers and solicitors and for the delivery and taxation of their bills of costs.

Deportation of Undesirables.—The Expulsion of Undesirables Ordinance, 1935, gives the local Executive power to make orders for the deportation of persons not born in the Territory who are regarded as undesirable, either on account of conviction for a criminal offence punishable by imprisonment for a year or longer or by reason of their presence in the Territory being injurious to the good government of the Territory or prejudicial to the well-being of the natives. Written consent of the Minister of State administering the New Guinea Act, 1920–35, must first be obtained to orders regarding persons other than those convicted of a criminal offence. Machinery provisions are set up for the effective execution of deportation orders, and a penal clause prohibits the return of deportees.

Carriage of Goods by Sea.—The Sea-Carriage of Goods Ordinance, 1935, brought the Territory legislation relating to the carriage of goods by sea into line with legislation in force in the Commonwealth of Australia.

1936.

Poor Persons' Legal Aid.—The Poor Persons' Legal Assistance Ordinance, 1936, establishes a procedure whereby a poor person committed for trial for an indictable offence can obtain legal assistance for his defence at the expense of the Administration. Necessary machinery provisions are contained in regulations made under the Ordinance.

Hire-purchase Agreements.—The Hire-purchase Agreements Ordinance, 1936, extends a limited protection to persons who take goods on hire under under hire-purchase agreements, by determining the powers of the owner of the goods on default. Contracting out is prohibited.

Landlord and Tenant.—The object of the Tenements Recovery Ordinance, 1936, is to facilitate the recovery of possession of tenements after determination of the tenancy. It is based upon similar Australian legislation.

Foreign Judgments.—Provision is made in the Foreign Judgments (Reciprocal Enforcement) Ordinance, 1936, for the enforcement in the Territory of judgments given in foreign countries which accord reciprocal treatment to judgments from within the Territory, and it facilitates the enforcement in foreign countries of judgments given in the Territory.

Married Women.—The Status of Married Women Ordinance, 1936, in short, provides that the legal capacity of a married woman, whether contractual, proprietary, testamentary or of any kind whatsoever, shall be the same as that of a *feme-sole*. In addition, it frees a husband from liability for any tort committed by his wife before or after marriage.

Adoption.—The Adoption of Children Ordinance, 1936, covers generally the adoption of infants other than natives. Power is given to the Supreme Court of the Territory to make an adoption order upon application. The Ordinance contains the usual restrictions on the making of adoption orders found elsewhere in similar legislation, and powers to vary or dis-

charge adoption orders, to make interim and subsequent orders and to impose terms and conditions. Marriage between adopter and adopted child is prohibited.

Forestry.—The growth of the timber industry in the Territory during the last few years made necessary more comprehensive legislation than was provided by the existing Timber Ordinance, 1922–31, repealed by this Ordinance. Qualified forestry experts have since been appointed to assist in the administration of the Ordinance. The Forestry Ordinance, 1936, authorizes the Administrator to grant permits and licences to take and contract for the sale of forest produce, subject to the payment of prescribed royalites, which are assessed by regulations made under the Ordinance. Adequate protection is afforded to natives, whose consent is required to the purchase and disposal of timber on native-owned land. The Ordinance deals with the conservancy and management of forests and the inspection of timber, and regulates the export of certain species or classes of timber.

Bills of Sale.—The Instruments Ordinance, 1936, replaces the Bills of Sale Ordinance, 1912 (Papua adopted), dealing with the same matter, and makes a number of changes in the law on the transfer of chattels and especially in the law relating to chattel securities. It provides for the registration of "instruments," but registration is not compulsory and is not necessary to the validity of the instrument, except so far as is set out in the Ordinance. An unregistered instrument is ordinarily perfectly good as between the parties. However, if the instrument is not registered within the prescribed time, the grantor or grantee, as the case may be, runs the following risks:

1. The title of the grantor or grantee, as the case may be, is liable to be displaced by the title given by a registered instrument, even though such registered instrument may be subsequent in date.

2. The title of the grantor or grantee, as the case may be, is liable to be displaced by a title obtained by a *bona fide* purchaser or mortgagee for value without express notice, even though the title of such purchaser or mortgagee has not been registered.

3. The grantor or grantee, as the case may be, will lose his remedies against any person *bona fide* selling or dealing with chattels comprised in an unregistered instrument as auctioneer, dealer or agent in the ordinary course of his business.

4. The chattels comprised in the instrument may be seized by the official trustee or trustee in insolvency of the grantee or grantor, as the case may be, as assets of the insolvent if such chattels were in the possession, order or disposition of the grantee or grantor at the commencement of the insolvency with the consent of the true owner.

5. The instrument will be fraudulent and void as against (*a*) the official trustee or trustee in insolvency; (*b*) an assignee for the benefit of creditors; (*c*) an execution creditor; so far as regards the chattels in the possession or apparent possession of the grantee or grantor, as the case may be, at the time of the insolvency or assignment, or the execution of the process of a court.

Except as otherwise provided, every instrument shall contain or shall have indorsed thereon or annexed thereto a schedule of the chattels comprised in the transaction.

Native Labour.—The Native Labour Ordinance, 1936, amends the Native Labour Ordinance, 1935, by providing that where a labourer is convicted

of an offence by a court of competent jurisdiction and the court directs the payment of any fine or costs ordered to be paid by the conviction to be made by instalments, the court may order the instalments to be deducted from the monthly wages of the labourer. The employer is required to deal with the wages of the labourer in accordance with the order of the court.

Companies.—The Companies Ordinance, 1933, provides that no company having for its object or one of its objects the engaging in agricultural, pastoral or forestry pursuits or aerial navigation, shall be formed or registered under the Companies Ordinance, 1912–26 (Papua adopted), unless at least two-thirds of the shares issued by the company are held by or on behalf of British subjects, and that in certain circumstances such a company in which the number of shares held by or on behalf of British subjects is at any time less than two-thirds of the total number of shares issued by the company, may, on a petition presented by the Registrar of Companies, be wound up. Ordinance No. 19 of 1936 adds companies engaged in " mining for oil, coal or iron ore " to the list.

1937.

In the year 1937, 33 Ordinances were passed. Five of these Ordinances relate to Appropriation and Supply. Four establish property trusts for mission organizations. The more important Ordinances are summarized below.

Bills of Exchange.—The Bills of Exchange Ordinance, 1937, makes two amendments in the Bills of Exchange Act, 1909–12, of the Commonwealth of Australia in its application to the Territory. One amendment provides that a bill of exchange issued in the Territory, presented for acceptance, accepted or payable outside the Territory, or a promissory note or cheque issued in the Territory payable outside the Territory, is not invalid by reason only that it does not comply with the stamp laws. If unstamped, or not properly stamped, it may be received in evidence on payment of the proper duty and penalty. This provision gives effect to the International Conventions on the Stamp Laws in connection with Bills of Exchange, Promissory Notes and Cheques. The other amendment inserts a provision relating to cheques drawn by a bank upon itself to establish uniformity with legislation of the Commonwealth of Australia.

Unemployment of Seamen.—The Shipping (Maritime Convention) Ordinance, 1937, gives effect to the International Convention relating to unemployment indemnity in the case of the loss or foundering of a ship. Seamen, other than natives, belonging to a vessel registered in the Territory are entitled to a passage to the port of discharge and wages for a period up to two months, if they are unemployed by reason of the wreck or loss of the vessel and cannot obtain suitable employment.

Probate.—The Administration and Probate Ordinance, 1937, makes provision for the granting of representation and for the administration of the estates of deceased persons following on the lines of similar legislation in Australian States. Provision is made for a Curator of Intestate Estates to whom the Supreme Court may grant an order to administer in certain circumstances. The principal circumstances are when there is no executor or administrator immediately available to act, when it is in the interest of the estate for the Curator to act, and when the Curator is appointed by will to act. Provision similar to that in force in England

is made for the order of application of classes of assets of an estate towards the payment of debts and other liabilities.

Fire Brigades.—The Fire Brigades Ordinance, 1937, gives power to the Administrator to establish fire brigades. The personnel of the fire brigades consists of members of the Police Force, both European and native. The Ordinance gives powers for the protection of life and property to Fire Officers, and frees a member of a fire brigade from liability for damage to property occasioned by a *bona fide* exercise of his duty.

Indemnity.—The Indemnity Ordinance, 1937, was passed to deal with indemnification for acts done in respect of the emergency arising out of the volcanic eruption at Rabaul on May 29, 1937. A period of emergency of thirty-one days from the date of the first eruption is specified, and legal proceedings, either criminal or civil, are forbidden in any court of law for or on account of any thing done in good faith for the public safety or in the public interest or for the protection of life or property during the period of emergency by any official or by any person under the instructions of an official. A certificate under the hand of the Administrator is conclusive evidence that anything done was within the indemnity, except that such certificate is only *prima facie* evidence that the thing done was done in good faith. Persons who, but for the indemnity, would have been entitled to take legal proceedings for taking or damaging goods are declared entitled to claim compensation from the Administration for the cost price of the goods, or for depreciation of the goods or for a reasonable charge for hire. In the event of a dispute, the amount of compensation is settled by arbitration.

Criminal Law.—The Criminal Code Amendment Ordinance, 1937, amends certain sections of the Queensland Criminal Code in force in the Territory. Rape is made punishable by death: Provided that the Court may, if it thinks fit, instead of sentencing the accused to death, sentence him to imprisonment for life, with or without solitary confinement, and with or without whipping. Attempted rape is made punishable with imprisonment for life, with or without solitary confinement, and with or without whipping. Indecent assaults on females are made punishable with fourteen years' imprisonment with or without whipping.

Powers of Administrator.—The Administrator's Powers Ordinance, 1937, amending the Administrator's Powers Ordinance, 1923–35, gives power to make regulations to control the dissemination among natives of books, pamphlets, periodicals, newspapers or other writing.

Native Labour.—The Native Labour Ordinance, 1937, in addition to making some drafting amendments in the Native Labour Ordinance, 1935–6, provides that, subject to the control of the Director of District Services and Native Affairs, the Assistant Director, District Services and Native Affairs may, during the absence of the Director from Rabaul, exercise and perform all the powers and functions of the Director under the Native Labour Ordinance.

1938.

In 1938 the Legislative Council of the Territory passed 51 Ordinances. A number of these were passed for the purpose of vesting the power to make regulations under the respective Ordinances in the Administrator in Council, where previously this power was with the Administrator. The following is a summary of the more important enactments during the year 1938.

Judiciary.—Ordinance No. 2 makes a minor amendment of the Judiciary Ordinance, 1921–36, by the insertion of a provision for payment of salary in lieu of leave of absence where a judge dies, retires, or is retired whilst on such leave.

Criminal Code.—Ordinance No. 4 amends the Criminal Code (Queensland adopted) by the substitution of the titles or descriptions of Territory authorities in lieu of those of Queensland.

Superannuation.—Ordinance No. 6 adds to the Superannuation Ordinance, 1928–37, a provision to cover the case of an officer retiring whilst on leave. Ordinance No. 34 authorizes the investment of the Superannuation Fund in securities of the Territory Administration guaranteed by the Commonwealth of Australia.

Native Labour.—Ordinance No. 8 amends the Native Labour Ordinance, 1935–7, by the introduction of a provision making it an offence to do any act (other than an act done *bona fide* in the execution of duty) causing, or calculated or manifesting an intention to cause, friction, discontent or disaffection among labourers or servants. Ordinance No. 47 effects further amendments of the principal Ordinance, the most important of which is to provide that the terms of a native labourer's contract may be varied with respect to the place of employment, purpose or nature of employment, and wages.

Companies.—Ordinance No. 16 amends the Companies Ordinance, 1933–6, by exempting companies engaged in mining for oil from the provisions that companies engaged in certain activities may not be formed or registered under Territory legislation, and may in certain circumstances be wound up, unless at least two-thirds of the shares issued by the company are held by or on behalf of British subjects. The amendment is consequential upon the revision of legislation relating to prospecting and mining for petroleum.

Currency.—Ordinance No. 35 effects an amendment of the Currency Coinage and Tokens Ordinance, 1922–35, to authorize the investment of the Coinage Trust Fund in securities of the Territory Administration guaranteed by the Commonwealth of Australia.

Liquor.—Ordinance No. 37 amends the Liquor Ordinance, 1931–7, by the insertion of a provision prohibiting the storage of liquor on licensed premises, except in a bar-room, storeroom, or room or place approved by the Chief Licensing Inspector.

Wills.—Ordinance No. 39 deals with (1) what may be the subject-matter of wills; (2) who may execute a will; (3) what are the formalities required in the execution of a will; and (4) how wills are to be construed.

Generally speaking, the Ordinance does not differ materially in substance from the statute law in force in Australia with regard to wills. A person of sound mind not under the age of twenty-one years may dispose by will of all his real and personal property. A will must be in writing, signed by the testator or by some other person in his presence and by his direction, and attested by two or more witnesses present at the same time, who must sign in the presence of the testator. It is pointed out that the Ordinance provides that a will made out of the Territory by a testator (whatever the domicile of the testator at the time of making the will or at the time of his death) shall, as regards his real and personal estate, be held to be well executed for the purpose of being admitted in the Territory to probate, if it is made according to the forms required either—(*a*) by the law of the place where it was made; (*b*) by

the law of the place where the testator was domiciled when it was made; or (*c*) by the law then in force where he had his domicile of origin. Every will made within the Territory by a testator (whatever the domicile of the testator at the time of making it or at the time of his death) shall, as regards his real and personal estate, be held to be well executed, and shall be admitted in the Territory to probate if it is executed according to the forms required by the law for the time being in force in the Territory.

Petroleum.—Ordinance No. 43 repeals the Petroleum Ordinance, 1936. The Ordinance makes a number of major alterations in the law regulating prospecting and mining for petroleum in the Territory. Many of the alterations were made for the purpose of enabling and encouraging concerns to embark on large-scale operations on modern and efficient lines entailing expenditure of large sums of money.

Subject to the Ordinance, all petroleum and helium is the property of the Administration. The scheme of the Ordinance provides for the issue firstly of a permit to allow of prospecting, secondly of a licence in respect of land included in the applicant's permit to allow of more detailed prospecting and of testing the land, and thirdly of a lease of land included in the applicant's licence. Except in special circumstances, a permittee may not hold under a permit an area exceeding in the aggregate 25,900 square kilometres; a licensee may not hold under a licence an area exceeding 6,475 square kilometres; and a lessee may not hold under a lease an area exceeding 1,295 square kilometres.

A permittee or licensee who has complied with the terms and conditions of his permit or licence and with the provisions of the Ordinance has, subject to the Ordinance, the right to a licence or lease respectively of any land included in his permit or licence. The issue of a permit means that the permittee knows that he is assured of being able to plan for the various stages of prospecting and eventual drilling. Except where a lease is surrendered or cancelled, and sold by tender, a lease may be granted only to a licensee, and, where a licensee is granted a lease in respect of a portion only of the land comprised in his licence, the licence continues in force in respect of the balance of the land comprised in the licence for a period of three years or for the total term for which a licence may be extended, whichever is the longer, during which time the lessee has the right to exchange the whole or any portion of the land comprised in the lease for an equal area of the land comprised in the licence. Provision is made that, where land comprised in any licence or lease forms part of a single geological petroleum structure or petroleum field (hereinafter referred to as "the oilfield") extending beyond that land and it is desirable that the oilfield shall be worked as one unit, the Administrator may vary the terms of the licence or lease by including therein any land to which the oilfield extends, and, if it extends into land included in any other licence or lease, require the oilfield to be worked and developed as one unit.

Provision is made for the Commonwealth Oil Advisory Committee to advise upon scientific or technical questions, and the Territory Petroleum Advisory Board to advise in regard to matters of administration. The Administration has a right of pre-emption where the Governor-General of the Commonwealth of Australia declares that a state of emergency exists. Provision is made that so long as any petroleum or any product thereof obtained from any land included in a lease can be

consumed in Australia (which includes Australian Territories), the lessee shall, if so required, ensure that such petroleum and products thereof shall be disposed of only for consumption in Australia.

Other alterations of the law to bring Territory legislation relating to prospecting and mining for petroleum into conformity with present-day legislation elsewhere have also been made.

Aerial Tramways.—Ordinance No. 46 gives the Administrator in Council power to make orders authorizing the erection and operation of aerial tramways, and deals generally with their construction, maintenance and operation.

Customs.—Ordinance No. 36 amends section 155 of the Customs Ordinance, 1921–36, by omitting the provision that drawback of import duty may not be allowed in respect of certain goods.

Stamp Duty.—Ordinance No. 41 exempts securities of the Territory Administration or any transfer thereof from stamp duty.

IV. NEW ZEALAND.

[*Contributed by* J. CHRISTIE, ESQ., C.M.G., LL.M., *Counsel to the Law Drafting Office.*]

The third and final session of the 25th Parliament of New Zealand was opened by His Excellency the Governor-General on June 28, 1938. Parliament was prorogued on September 19, 1938, and was dissolved on the following day. 24 Public Acts, 17 Local Acts and 2 Private Acts were passed.

The fact that a general election was pending made it practically impossible to carry out a legislative programme of normal dimensions, and only one Act of major importance (viz. the Social Security Act) was passed.

The following extract from the " Speech " made by the Governor-General on the occasion of the opening of Parliament furnishes the key-note to the policy of the present Government, as implemented by the legislation passed since it came into office as the result of the general election in November 1935 :

> By the policy measures of my Government the national income has been distributed more evenly and more equitably over the whole community, thus on the one hand eliminating the miseries of poverty and unemployment, and on the other hand expanding the national purchasing power on which our prosperity depends. The general well-being of the whole people is the proper aim of every Government, and in the opinion of my Advisers this has largely been achieved in New Zealand to-day.

Referring to the intention of the Government to introduce the " Social Security Bill," His Excellency proceeded to say :

> My Ministers propose to introduce a Bill insuring the people of this Dominion against the contingencies arising from unemployment, sickness, incapacity, invalidity, widowhood, orphanhood, old-age, or other exceptional conditions, by the provision of benefits to compensate them so far as possible for the loss of livelihood thereby occasioned. My Ministers also propose to institute a system whereby the advantages of medical, surgical, nursing, and hospital treatment will be made available to all persons in need of such treatment, and, further to provide such other facilities as may be necessary to maintain and promote the health and general welfare of the community.

My Ministers, in promoting this legislation, aim at utilizing the increased powers of production that have become available to give security to every worthy citizen of this country, irrespective of age or sex. They believe that these proposals will be greatly in advance of similar legislation in any other part of the world and that this measure, with the legislation already passed by my Government, will undoubtedly place the Dominion again in the van of progressive countries and assure to New Zealand the leadership of the world in humanitarian and social legislation.

Time alone can tell whether the claim that New Zealand leads the world in " humanitarian and social legislation " is well founded ; but the results of the general election that was held in October 1938 prove that in the meantime the Government's policy meets with the approval of the electors.

As has already been said, the Social Security Act overshadows the rest of the legislation of the year. In the " Review " that follows, the subordinate legislation is dealt with first, and the Review concludes with a more detailed statement of the social-security plan.

New Zealand Council of Law Reporting.—Hitherto the " official " reports of the superior Courts of New Zealand have been published under the direction of an unincorporated association of representative barristers, known as the New Zealand Council of Law Reporting. Act No. 2 incorporates this Council (not necessarily with the same personnel), and defines its powers and functions. The Council is given a practical monopoly of the publication in series of reports of the proceedings of the Supreme Court and the Court of Appeal.

Surveyors.—In 1928, the law relating to the registration of surveyors was separated from the law relating to the New Zealand Institute of Surveyors.[1] Act No. 4 brings together again the law relating to these two subject-matters and makes certain changes of minor importance, following on the lines of recent Acts governing other professions. For example, provision is made requiring practising surveyors to take out annual practising certificates and to pay an annual practising fee. Practising fees are fixed by the rules of the Surveyors' Institute and are made payable to the Institute. The general functions of the Institute are summarized in the Act in the following terms : " To promote and encourage proper conduct amongst surveyors ; to suppress illegal, dishonourable, improper and objectionable practices ; to preserve and maintain the integrity and status of the profession of surveying ; to provide opportunities for the acquisition and diffusion of knowledge in relation to surveying and kindred subjects ; to consider and suggest amendments in the law relating to surveys and surveying ; to provide means for the amicable settlement of professional differences ; and generally to protect and promote the interests of the profession of surveying and the interests of the public in relation to surveys and surveying."

Arbitration.—Act No. 6 is virtually an adoption of the Arbitration Act, 1934 (24 & 25 Geo. V, c. 14), which was passed in the United Kingdom in accordance with the recommendations of the Committee presided over by Mr. Justice MacKinnon in 1927.[2]

Dairy Industry.—By Act No. 10 express authority is given for the making of regulations to provide, *inter alia*, for " farm-dairy instruction," and for the imposition of levies on persons engaged in the manufacture of

[1] See *Journ. Comp. Leg.*, Third Series, vol. xii, pt. ii, p. 131.
[2] See *Ibid.*, vol. xviii, pt. ii, p. 4.

dairy produce, the proceeds to be applied towards defraying the cost of instruction and inspection.

King George the Fifth Memorial.—As a memorial to His late Majesty King George V, there was raised (partly by public subscription and partly by Government grant) a fund to be used for the purpose of establishing and maintaining "Children's Health Camps." The fund now amounts to over £177,000 and by Act No. 11 an incorporated Board has been set up for the administration of the Fund.

Adult Education.—By Act No. 14 there is established a Council of Adult Education of which the Director of Education and the Director of Broadcasting are members by virtue of their respective offices. Other members are to be appointed on the recommendation of the New Zealand University Senate and the Workers' Educational Association, while two other members are to be appointed by the Minister of Education. Moneys granted to the New Zealand University for purposes of adult education are to be expended by it in accordance with directions given by the Council of Adult Education. The Council is directed by the Act "to co-ordinate the activities of the organizations concerned with adult education, and generally to promote adult education."

Breeding of Horses.—The Stallions Act (No. 16) provides for the examination and licensing of stallions, and prohibits the use of unlicensed stallions for stud purposes.

Native Housing.—Act No. 17 empowers the Board of Native Affairs to build houses for occupation by Natives, and to dispose of such buildings by lease, or by sale for cash or on a time-payment system.

Statutes Amendment.—Act No. 20 contains 62 sections and amends over 30 different Acts. In the note upon the Statutes Amendment Act, 1936,[1] the purpose of promoting an annual "Statutes Amendment Bill" is explained; the intention, as there stated, is that there should be included in such Bills "only such general and relatively unimportant amendments of the law as hardly call for the promotion of separate amending Acts." That intention has been well observed in the 1938 Act. The only section calling for comment is s. 40, which extends the operation of the indemnity provided by contracts of insurance under the Motor-vehicles Insurance (Third-party Risks) Act, 1928, so as to cover claims for contribution under s. 17 of the Law Reform Act, 1936 (relating to contribution by joint tort-feasors).

New Zealand Centennial.—Act No. 21 establishes a National Centennial Council to make the necessary arrangements in relation to the suitable celebration in the year 1940 of the hundredth anniversary of the founding and settlement of New Zealand as a British colony. Special provisions are also made in relation to the New Zealand Centennial Exhibition that is proposed to be held in the City of Wellington.

Mandated Territories.—The Samoa Amendment Act (No. 22) makes a number of minor amendments of the Samoa Act, 1921.[2] *Inter alia* the punishment of "exile" is abolished, and limitations are imposed on the authority conferred by the principal Act to transfer long-term prisoners from Samoa to New Zealand. This power cannot in future be exercised in respect of persons of the Samoan race, whether by pure or mixed descent. The amendments referred to represent concessions made in recognition of the Samoan pride of race.

[1] See *Journ. Comp. Leg.*, Third Series, vol. xx, pt. ii, p. 116.
[2] See *Ibid.*, vol. v, pt. ii, p. 109.

Social Security.—The Social Security Act (No. 7) is an ambitious measure. In form it is new; in substance it is partly old and partly new. In so far as it is old, it replaces old-age pensions and other civil pensions by a series of "monetary benefits"; it also replaces the former "employment tax" by a "social security contribution." In so far as it is new, it provides for a series of services to the people by way of so-called "medical benefits," "hospital benefits," "maternity benefits," "pharmaceutical benefits" and other related "benefits." A stigma is said to have attached to the expressions "pension," "tax," "old-age" and certain other terms, and these expressions have been replaced by euphemisms to which a stigma is not yet attached.

The Act is divided into five "Parts" as follows: Part I. Administration; Part II. Superannuation benefits, and benefits in respect of age and other special conditions; Part III. Medical and hospital benefits and other related benefits; Part IV. Financial provisions; Part V. General.

Part I creates a new Department of State under the name of the Social Security Department. The administrative control of the Department is vested in a Commission of three public servants, acting under ministerial direction. The former office of Commissioner of Pensions disappears.

Part II replaces the former system of old-age and other civil pensions by monetary benefits, some of which are new while others are the former pensions under a new name, but at higher rates and under unified and (from the beneficiaries' point of view) improved conditions. The benefits so provided for are classified as follows:

(1) *Superannuation Benefits.*—These are new. Subject to certain residential conditions, every permanent resident in New Zealand who has attained the age of sixty-five years is entitled to receive a superannuation benefit; no "means test" is applicable. The commencement of the provisions as to superannuation benefits is postponed until April 1, 1940. The rate of the superannuation benefit for that year is fixed at £10. In each succeeding year it is increased by £2 10*s.* a year. Thus for the year 1941 the annual rate of the benefit will be £12 10*s.* for the following year £15; and so on until the maximum rate of £78 a year is reached in the year 1968. If a person who for the time being is in receipt of a superannuation benefit is also entitled to an age benefit (referred to below) the amount of the superannuation benefit is regarded as part of the age benefit (so that in effect the beneficiary receives the more advantageous of the two benefits but not both). The superannuation benefit is the first step towards the establishment of a national superannuation scheme on a contributory basis.

(2) *Age Benefits.*—The "age benefits" provided for in the new Act replace the former "old-age pensions," the maximum general rate being increased from 22*s.* 6*d.* a week to 30*s.* a week, the qualifying age being fixed for both men and women at sixty years. Under the former system, women qualified for an old-age pension at the age of sixty years, men at the age of sixty-five years. The basic rates are reducible on account of other income or the value of accumulated property of the beneficiary, and may be increased on account of special conditions (*e.g.* the existence of dependants).

(3) *Widows' Benefits.*—The provisions of the new Act as to widows' benefits replace the former provisions as to widows' pensions, but with material differences. Under the former legislation a widow was entitled

to a widow's pension only if and so long as she had one or more children dependent on her for their support. The new Act makes provision not only for this class of widows but also for widows who by reason of their marriage or the care of children have for so long been debarred from following a self-supporting occupation that, on the termination of those special conditions, they cannot reasonably be expected to become entirely self-supporting. In certain exceptional cases, women who are not in fact widows may be treated as if they were widows. Typical such cases are those of married women separated from their husbands and married women whose husbands are mentally defective.

(4) *Orphans' Benefits.*—The provisions as to orphans' benefits are new. The maximum benefit is fixed at £39 a year ; the benefit is payable to the person having the care and control of the child in respect of whom it is payable, or to any other reputable person, and is required to be expended for the benefit of the child. An orphan is defined, in effect, as a child under sixteen years of age both of whose parents are dead. The relationship of parent and child is not limited to the natural relationship, but includes relationships created by adoption or by the remarriage of a parent. Orphans' benefits are not payable in respect of children who for the time being are maintained in any State institution.

(5) *Family Benefits.*—" Family benefits " take the place of the " family allowances " formerly payable under the Family Allowances Act, 1926.[1] The maximum rate of the benefit is fixed at 4*s.* a week for each child of the applicant parent in excess of two (an increase of 2*s.*).

(6) *Invalids' Benefits.*—Pensions for persons suffering from blindness were first provided for in the Pensions Amendment Act, 1924. These provisions were replaced in 1936 by provisions for " invalidity pensions " payable in respect of blindness or of permanent incapacity due to accident, illness or congenital defect.[2] Invalidity pensions are now replaced by invalids' benefits. The maximum rate for an unmarried applicant under twenty-one years of age is fixed at £1 a week ; for other cases, the maximum rate is fixed at 30*s.* a week, increased by 10*s.* a week for the wife of a married applicant and further increased by 10*s.* a week for each dependent child.

(7) *Miners' Benefits* replace the former provisions for miners' pensions payable to persons who, from their occupation as miners, have contracted pneumocomosis or any other occupational disease, or heart disease. In common with other classes, the rates of the benefits provided for are in excess of the rates of the corresponding pensions under former legislation.

(8) *Sickness Benefits.*—The provision for " sickness benefits " is new, and is complementary to the provisions for invalids' benefits. Sickness benefits are payable in cases of temporary incapacity due to sickness or accident and attended by a loss of salary, wages or other income. The rate of a sickness benefit is not in any case to exceed the applicant's loss of earnings ; subject to this qualification, an unmarried applicant under twenty years of age can receive 10*s.* a week by way of sickness benefit ; the maximum rate for other applicants is fixed at £1 a week, increased by 15*s.* for a wife and 5*s.* for each dependent child.

(9) *Unemployment Benefits.*—The provisions for the payment of " unemployment benefits " supersede the authority given by the Employ-

[1] See *Journ. Comp. Leg.*, Third Series, vol. x, pt. ii, p. 106.
[2] See *Ibid.*, vol. xx, pt. ii, p. 112.

ment Promotion Act, 1936, for the payment out of the Employment Promotion Fund of allowances (at rates fixed by the Minister of Labour with the approval of the Minister of Finance) to persons for the time being out of employment or otherwise in need of assistance.[1] The rates and general conditions fixed in respect of " unemployment benefits " are, as nearly as may be, the same as those fixed in respect of temporary sickness.

(10) *Maori War Benefits* are in substitution for the Military Pensions formerly payable under the Pensions Act, 1926, to veterans of the Maori Wars.

(11) *Emergency Benefits.*—By s. 58 of the Act the Commission is authorized to grant an " emergency benefit " on account of hardship to any person who (not being qualified for any of the foregoing benefits) is unable to earn a sufficient livelihood by reason of age, or of physical or mental disability, or of domestic circumstances, or for any other reason. The rates of emergency benefits are in the discretion of the Commission, subject to the qualification that where possible the rates are to be fixed by reference to the prescribed rates of analogous benefits.

General Provisions as to Monetary Benefits.—(1) All applications for benefits (including applications for renewals) are dealt with by the Commission ; the Commissioners are empowered to summon witnesses, to hear evidence on oath and to call for the production of documents.

(2) No person is entitled to receive benefits of more than one class in respect of the same period.

(3) The general rule with respect to benefits payable wholly or in part in respect of children is that such benefits (in so far as they are payable in respect of children) cease when the child attains the age of sixteen years ; the Commission has authority, however, to extend the duration of the benefit for not more than two years so as to assist in the further education of the child.

(4) Benefits are not expressly made payable in respect of children born out of wedlock ; but provision covering such children is made indirectly in certain cases where the Commission is authorised to regard any child as being a member of the family of an applicant if, though not within the legal definition of the term " family," it is for the time being maintained as a member of the family.

(5) All benefits are protected against alienation ; it is made an offence for any person to demand or accept any certificate or acknowledgment or undertaking that would constitute a legal or equitable assignment if the benefit were capable of assignment.

Part III makes provision for benefits by way of services, as distinguished from the monetary benefits provided for in Part II. The services so provided for are classified as: (*a*) Medical benefits ; (*b*) Pharmaceutical benefits ; (*c*) Hospital benefits ; (*d*) Maternity benefits ; (*e*) Supplementary benefits.

The benefits provided for in this Part are to be made available for everyone, without regard to the means or circumstances of the beneficiaries.

The Act contemplates that the several benefits will be made available as from April 1, 1939, but recognizes the fact that administrative difficulties may make it impossible to have complete services in operation at this early date. If any of the services cannot be made available on the fixed date, the Minister of Health (who is charged with the administration

[1] See *Journ. Comp. Leg.*, Third Series, vol. xx, pt. ii, p. 107.

of this Part of the Act) is directed to have such services made available as soon as practicable thereafter.

Medical Benefits.—The expression "medical benefits" is defined to include "all proper and necessary services of medical practitioners other than those services involving the application of special skill and experience of a degree or kind that general medical practitioners as a class cannot reasonably be expected to possess."

At the time of writing, there are certain outstanding differences of opinion between the Government and the representatives of the medical profession. While the Act provides for a limited medical service (excluding, *e.g.*, the services of recognized specialists) being made available, without charge, for every member of the community, the representatives of the profession have advocated a complete service limited to those persons in the community who are unable to pay for their own treatment. The Act makes no attempt to fix the conditions of service, but leaves the matter open for agreement between the Minister and the medical practitioners who elect to work under the proposed scheme.

Hospital Benefits.—Hospitals in New Zealand are either "public hospitals" maintained by Hospital Boards, or "private hospitals" conducted by licensed persons as business enterprises. The Act, in making provision for hospital benefits, provides in effect that hospital treatment afforded in a public hospital shall be free to the patient; where treatment is received in a private hospital, the State will make payment of a prescribed rate, to be accepted by the hospital authorities in part payment of the charge to the patient. It is to be noticed, in passing, that the Act does not confer a right to receive hospital treatment, but merely makes provision with respect to the payment for such treatment as is in fact afforded. No charge is in future to be made in respect of the maintenance of any patient in a State "mental hospital." (With one exception, all "mental hospitals" in New Zealand are State institutions.)

Maternity Benefits include ante-natal and post-natal treatment and advice, and all necessary medical, nursing and other attendance at confinement and for fourteen days thereafter. No charge is in future to be made in respect of confinements in State maternity hospitals or in maternity hospitals conducted by Hospital Boards; provision is made for payment by the State of prescribed fees in partial satisfaction of the charge made in respect of confinements in privately controlled maternity hospitals. Where a woman is confined elsewhere than in a maternity hospital, the medical and nursing charges are to be paid by the State.

Supplementary Benefits.—Among the supplementary benefits that are contemplated, the Act refers to radiological and laboratory services, the services of specialists and consultants, dental services, home-nursing services and the provision of domestic assistance. The Minister of Health is given a general authority to inaugurate all or any of such services, on terms to be arranged with the persons primarily concerned in rendering such services.

Part IV imposes a special form of income-tax (euphemistically termed "the social security contribution") for the purpose of defraying, in part, the cost of the monetary and other benefits provided for in Parts II and III. In so far as the proceeds of the Social Security Contribution prove insufficient, it is to be assumed that recourse must be had, through the Consolidated Fund, to general taxation. The Social Security Contribution replaces the Employment Tax imposed by the Employment

Promotion Act, 1936.[1] the rate of the tax being increased from 8*d.* to 1*s.* in the pound, and the incidence being somewhat extended. When a special tax on income for unemployment purposes was first imposed in 1931, it was regarded as a personal charge on individuals and companies were exempt. The new Act brings companies within the scope of the taxing provisions, and exempts from tax dividends in the hands of the shareholders.

The Employment Promotion Fund is abolished, and any moneys that would have been payable to that Fund will now go to the Social Security Fund. For the purpose of ensuring compliance with the taxing provisions of the Act all persons over sixteen years of age (men and women alike) are required to be registered and to pay an annual registration fee. For women and for youths under twenty years of age the fee is fixed at 5*s.* a year ; in other cases the fee is 5*s.* a quarter. In addition to the proceeds of the registration fee, a special charge of 1*s.* in the £ is imposed on all salaries, wages and other income. No statutory exemptions are specifically provided, but the Governor-General in Council is empowered to exempt classes of persons, in whole or in part, from liability in respect of the Social Security Contribution if " on grounds of public policy " he deems it advisable to do so. The machinery provisions of this Part of the Act are taken from the Employment Promotion Act, 1936 (which is repealed).

Part V contains some miscellaneous provisions of little general interest. Among other things, it makes it an offence, punishable by fine or imprisonment, for any person to make any false statement or otherwise to mislead or attempt to mislead any officer concerned in the administration of the Act, for the purpose of obtaining for himself or for any other person any benefit under the Act or any exemption from any obligation or liability imposed by the Act.

V. WESTERN PACIFIC.

1. FIJI.

[*Contributed by* E. E. Jenkins, Esq., *Attorney-General.*]

Twenty-eight Ordinances were passed by the Legislative Council during 1938, of which the following are the principal :

Lighting Control.—No. 3 empowers the Governor in Council to make regulations to provide for the total or partial cessation of lighting on occasions of emergency or public danger.

Cinematograph.—No. 8 sets up a Board of Control for the purposes of control and censorship of cinematograph films and posters.

Petroleum.—No. 10, which replaces the Petroleum Ordinance, 1918, and the Oil Storage Ordinance, 1915, follows modern legislation on the subject. It provides for the importation or exportation of petroleum only at or from a declared harbour or other duly appointed place. Masters of vessels carrying petroleum are required to notify the Harbour Master that petroleum is carried, and the vessels are to proceed to an anchorage directed by the Harbour Master. Modern definitions of the different classes of petroleum are included in the Ordinance. Officers of constabulary are given powers of entry and inspection in order to ascer-

[1] See *Journ. Comp. Leg.*, Third Series, vol. xx, pt. ii, p. 107.

tain whether the provisions of the Ordinance and Regulations are being complied with. The Governor in Council is empowered to grant permission for the laying of pipes for the conveyance of oil under streets or privately owned land. The Ordinance is in effect an enabling Ordinance allowing detailed regulations to be made as to the transport by sea or land, and the storage of petroleum in accordance with modern practice.

Money-lenders.—No. 14, which has been adapted from the Money-lenders Act, 1927, of the United Kingdom and the Straits Settlements Ordinance, provides for the licensing and control of money-lenders. Previously there was no such Ordinance in force in the Colony. The Ordinance does not apply to *bona fide* bankers, insurance companies or pawnbrokers licensed under the Licence Ordinance, 1924, or any person *bona fide* carrying on a business not having for its primary object the lending of money in the course of which and for the purposes whereof money is lent at a rate of interest not exceeding 10 per cent. per annum or to any person who during the course of one year lends money on interest or for profit on not more than three occasions. No contract of loan is enforceable unless a note or memorandum of the loan be given. Compound interest is forbidden. Provision is made for the reopening of any transaction which is harsh and unconscionable, and charges for expenses on loans by money-lenders are prohibited. Interest above 12 per cent. per annum is presumed excessive.

Pensions.—No. 15, which replaces the Pensions Ordinance, 1928, is based on a model Ordinance forwarded by the Secretary of State and applies to the Colony so far as is possible the principle of uniformity in superannuation benefits throughout the various colonies. The principle of calculating pensions on the basis of 1/600th of the pensionable emoluments for each completed month of pensionable service is substituted for that of calculation on the basis of 1/720th for each month plus a climatic bonus of 60/720th in respect of the first ten years of service. The Governor in Council may require any officer to retire after he has attained the age of fifty-five years and in special cases, with the approval of the Secretary of State, after he has attained the age of fifty years.

Government Employees' Provident Fund.—No. 16 was passed to make provision for superannuation benefits for certain non-pensionable employees in the Government Service by means of a Provident Fund. A monthly reduction of 5 per cent. and, in the case of females, 6 per cent. is to be made from the salaries of contributors, and the Government is to credit the account of each contributor with a like sum called a bonus. The bonus is increased in the case of male officers with over ten years' continuous service, and still further increased after twenty years.

2. GILBERT AND ELLIS ISLANDS.

3. SOLOMON ISLANDS.

[It is hoped to include notes upon the legislation in the next Review.]

4. KINGDOM OF TONGA.

[*Contributed by* A. L. Armstrong, Esq.]

Number of Acts—14.

Customs.—Act No. 3 consolidates and amends the Customs Duties Acts of 1923, 1934 and 1936. Under its provisions the margin of preference granted to British Empire goods is substantially increased, and

assistance is granted to agriculturalists by admitting, duty free, certain articles commonly used in agriculture.

Poll Tax.—Act No. 5 amends the Poll Tax Act, 1936. The principal amendments are :

(*a*) Reduction of tax from 36*s*. to 32*s*. a year.

(*b*) Substitution of yearly for quarterly liability for tax and prosecution for non-payment.

(*c*) Admission of payment by instalments.

(*d*) Reduction of penalty for non-payment of tax and provision for recovering by distress.

(*e*) Abolition of fee for application for exemption from tax.

Act No. 8 (The Clemency Act, 1938) provides for the remission of arrears of poll tax up to December 31, 1937, and for any penalties imposed for non-payment of such arrears.

The Legislative Assembly.—Act No. 10 amends the Legislative Assembly Act, 1915, and makes provision for the vacation of the seat of a member of the legislative assembly if he ceases to be qualified for election or absents himself, without leave and for a prescribed period, from the Assembly. It also makes provision for the election of a successor.

The Aircraft Fuel and Lubricants (Exemption from Duty) Act, 1938.—Act No. 13 applies to Tonga the agreement of December 1935 between the United Kingdom and the Netherlands for the reciprocal exemption of aircraft from the payment of Customs and other duties on fuel and lubricants. It also provides for the application to Tonga, by Order in Council, of any similar agreements which may be entered into, in future, between the United Kingdom and other European countries.

Wireless Telegraphy.—Act No. 14 amends the Wireless Telegraphy Act, 1930, and empowers the Superintendent of Telegraphs to inspect any electrical or other machinery and any system of electrical wiring, and to enforce measures for the elimination of interferences therefrom in wireless reception. It also empowers the Cabinet to condemn any machinery from which interference cannot be suppressed and any system of electrical wiring which does not conform to the required standard.

5. NEW HEBRIDES.

[*Contributed by* His Honour G. A. Joy, *Resident Commissioner.*]

Joint Regulations—12.

Liquor.—No. 1 suspends the obligation to procure a permit to buy alcoholic liquor.

Public Health.—No. 2 provides for special precautions against the entry of Infantile Paralysis into the New Hebrides.

No. 11 regulates the organization of Condominium Medical, Sanitary and Native Health Services and Repeals Joint Regulation No. 14 of 1931.

Wild Birds.—No. 4 forbids the export of certain birds without a licence.

Postal.—No. 6 validates the new issue of postage stamps.

No. 7 amends the New Hebrides Postal Tariff.

No. 12 amends the New Hebrides Postal Tariff in regard to first-class mail to Great Britain, Northern Ireland and Eire, in conformity with the Empire Airmail Scheme.

Lighting Control.—No. 10 provides for control of lighting in an emergency.

VI. SOUTH AFRICA.

1. UNION OF SOUTH AFRICA.

[*Contributed by* A. A. Schoch, LL.D., K.C., *Senior Government Law Adviser.*]

Early in 1938 the seventh Parliament of the Union of South Africa held its last session, which was of short duration, and soon after the House of Assembly elections in May the eighth Parliament held its first session, which was also of short duration. All the Acts passed in both sessions held in 1938 were combined in one volume, which represents the smallest legislative output of Parliament in any year since its inception in 1910.

Of the twenty-five Acts passed in 1938, fourteen are annually recurring financial measures and ten merely amend prior Acts. Of these amending Acts the three most important (Nos. 6, 19 and 24) deal respectively with the extremely complicated laws relating to compensation of persons who have contracted phthisis in the gold mines, to the marketing of agricultural produce and to the activities of the Land and Agricultural Bank.

Tourist Development.—The one remaining Act which is a complete but short measure is numbered 15 and is called the Tourist Development Corporation Act. It provides for the establishment of a body corporate called the Tourist Development Corporation of South Africa, but only if persons or communities of financial standing have undertaken to contribute towards the funds of the corporation a sum of not less than £12,500 per year for five years, commencing with the establishment of the Corporation. (As such undertakings were duly given, mainly by the larger municipalities, the corporation was established shortly after the commencement of the Act.) The corporation is controlled by a board of six persons appointed by the Governor-General for a period not exceeding five years. Every person who, or community which, has undertaken to contribute to the funds of the corporation as aforesaid may nominate one person and the South African Publicity Advisory Committee may nominate five persons for appointment to the board. Four of the six members of the board must be persons who were so nominated. The object of the corporation is, by means of advertisement and dissemination of information about South Africa, to encourage persons who reside elsewhere to visit South Africa and to travel about therein, and the main functions of the board are to furnish interested persons with information about South Africa, to advise strangers who are travelling to or in South Africa, to publish information which is likely to assist in achieving the objects of the corporation, and generally to assist in making South Africa attractive to visitors from abroad. The revenue of the corporation is made up of the annual contributions mentioned above, and an amount equal to three times the sum of those contributions (but not exceeding £75,000) paid by the State. One-third of the State's annual contribution is paid from the consolidated revenue fund and two-thirds from the Railways and Harbours fund.

2. CAPE PROVINCE.

[*Contributed by* A. J. Pienaar, B.A., LL.B., K.C.]

Apart from the routine financial measures and the usual amending Ordinances, the Provincial Council placed upon the Statute book consolidating ordinances of considerable volume and some importance.

Wild Flowers.—It will be remembered that Ordinance No. 15 of 1937 contained very stringent provisions designed to protect indigenous wild flowers from indiscriminate plucking. As so often happens in such cases blind zeal went too far. It was found that persons who had done much for the preservation of wild flowers, namely, professional nurserymen both in the town and country districts, would be unable to buy from or sell to each other plants, bulbs, seeds and flowers which they had propagated and cultivated for years. Further, scientific societies and the botanical departments of the universities were prevented from obtaining specimens from the nature reserves. Ordinance No. 3 of 1938 remedies these defects. Regarding the nurserymen, they are, subject to regulations made and conditions imposed by the Administrator, exempted from the restrictive provisions of the parent Ordinance if they are registered under the Agricultural Pests Act, 1911, of the Union. Regarding the latter defect, the Administrator is empowered to grant special permits to a member of the staff of a university, or of a recognized scientific institution or expedition.

Local Authorities.—(*a*) Rural: Ordinance No. 7 is the annual amending Ordinance. The provisions which may be noticed are: S. 2 which amends s. 25 of the parent Ordinance (No. 13 of 1917), by giving the vote to the wife of an occupier of property as well as to the occupier; ss. 9 and 10, which empower divisional councils to establish and control public markets. S. 10 also enables a council to restrict the dumping of derelict motor bodies on waste lands, and to cause petrol pumps on public roads to be removed or set back.

(*b*) Urban: Ordinance No. 14 contains the annual amendments to the Cape Municipal Ordinance, 1912 (No. 10 of 1912). As usual the powers of a Council to control the activities of the citizens are extended. In time the minor bodies, such as the village management boards and local boards, imitate the municipalities and seek, often successfully, similar powers. In this Ordinance s. 2 enables a Council to regulate and license boating establishments and boats plying for hire on inland waters, and to regulate and restrict the business of cleaners and dyers. S. 7 has given rise to considerable discussion and difficulty. It forbids the opening of a quarry (for gravel, stone, slate, etc.) without the consent of a Council, which may be refused if such opening would, in the opinion of the Council, establish a nuisance, become a source of danger or cause the scenic or other amenities of the neighbourhood to be destroyed or seriously impaired. The owner of an existing quarry must, upon six months' notice, close it, if in the opinion of the Council it is open to the above enumerated objections. There is a right of appeal to the Administrator. A contravention of the provisions of the section is an offence, punishable by fine not exceeding £100.

Public Roads Traffic Control.—Local authorities are empowered under their respective constituting Ordinances to regulate and control traffic on the public roads within their jurisdiction. In addition, under the Motor Ordinance they are given powers in respect of motor traffic while the Administrator is endowed with even greater powers to make regulations for this class of traffic. This, however, was not enough. It was found that some local authorities would not use their powers to ensure that animal-drawn vehicles, pedal bicycles and light carts propelled by human agency were provided with warning lights when in a public road after dark. Furthermore, there was no uniformity in the areas of the

different authorities. Ordinance No. 13 was designed to remedy this state of affairs. S. 2 provided that after dark all animal-drawn vehicles should carry two front lights and one rear light. Unfortunately in the Council, as a result of pressure from rural constituencies, this was amended so as to provide that the lights to be carried by such vehicles may be prescribed by regulation made by the Administrator. The argument used was that oil lamps would be a source of danger to carts and wagons carrying loads of hay or pine wood. In regard to bicycles, these must be provided with a front light and a reflector at the back. The Administrator may also issue standard regulations which would serve as models and be adopted by the local authorities. A great deal of the value of the Ordinance was destroyed by the amendment mentioned above. The Administrator may also make regulations protecting roads by limiting weights of vehicles and prohibiting the use of roads at certain times and seasons. These regulations are expressly made applicable to the Crown. The motor lorries of the Union Railway Department are the chief offenders, so it is alleged, hence the necessity for such regulations.

Motor Vehicle.—The revision of legislation dealing with the registration and licensing of motor vehicles and their drivers, and all the problems arising out of motor traffic, had for some years been under the consideration of the four provinces of the Union, with a view to bringing about uniformity, and making existing legislation more suitable to modern conditions. Consultations had taken place between the provinces and conferences held with interested groups such as representatives of the local authorities, the automobile clubs and the motor industry. As far as the Cape is concerned, this Ordinance (No. 15), which replaces the parent Ordinance (No. 12 of 1926), and all its subsequent amending Ordinances is the result. It may be regarded as the *magnum opus* of the session. It fills seventy-nine pages of the Statute Book for the year, and, apart from local regulations, contains all the Statute law of the Cape relating to motor vehicles. Chapter I deals with the registration and licensing of motor vehicles. As soon as any person becomes the owner of a motor vehicle he must register it, when a number and district letters will be assigned to the vehicle. Upon production of a registration certificate he can obtain his annual licence. The fees payable depend upon the class and weight of the vehicle. There are four main classes of vehicles, viz. ordinary motor cars, goods vehicles and omnibuses, trailer and motor cycles. The first three are again subdivided into those fitted with pneumatic tyres and those fitted with solid tyres. Under the previous law the fee for cars up to 1,500 lb. weight was the minimum—viz. £4. Now the minimum of £4 is payable in respect of cars weighing up to 500 lb. and increases to £62 10*s*. for cars of 9,001 or more lb. with pneumatic tyres. The fees are considerably more for solid tyres. Motor cycles pay £1 5*s*. (solo) and £2 10*s*. with sidecar. Provision is made for the transfer of registration and licence from one car to another, or one owner to another in case ownership changes. If a licence has not been renewed by June 30 the registration of the car is cancelled. Manufacturers and repairers are allowed to take out a general licence instead of one for each car. Chapter II is devoted to the licensing of drivers. Licences are divided into three classes—for light motor vehicles, heavy motor vehicles and motor cycles. Applicants for a new licence must satisfy an examiner appointed by the Administrator that : (*a*) he has a good knowledge of the rules of the road ; (*b*) is competent to drive the

class of vehicle to which the licence relates; (*c*) is not suffering from any physical or other defect which would render him incapable of driving without endangering public safety; (*d*) is ordinarily resident in the district of the examiner; (*e*) has not within the previous three months been refused a certificate; (*f*) is not disqualified; (*g*) is at least eighteen years of age, in case of a cycle or light car licence, and twenty-one in case of a heavy car licence; (*h*) does not hold a similar licence; (*i*) has not had his licence cancelled or suspended, unless the period of suspension has expired; (*j*) is not addicted to the use of narcotic drugs or excessive use of alcohol; and (*k*) can read and understand traffic and road signs. The applicant must sign a declaration in respect of the particulars required by (*e*) to (*j*). Having obtained a certificate of competence he must apply to the issuer of licences, and produce two recent photographs of himself and his certificate. The licence fee is £1 for a motor cycle and £2 for any other kind and need not be renewed. Provision is also made for occasional and learners' licences.

The Administrator may suspend or cancel any licence if he is satisfied that the holder, through physical defect or infirmity or addiction to drugs or alcohol, is no longer a fit person to hold a licence, and for this purpose the Administrator may call upon a holder to submit himself to medical examination.

Chapter III provides for the recognition of drivers' licences issued in the other provinces of the Union, and of Current International Driving Permits issued in terms of the International Convention relative to Motor Traffic (Paris, 1926) or any similar convention recognized by the Union Government, or by any State or Territory which is a contracting party to such a convention. Special provision is also made for the recognition of current motor-vehicle licences issued in the other provinces or in countries which are contracting parties to the Paris Convention.

Chapter IV deals in detail with the suspension, cancellation and endorsement of licences. In case of a third or subsequent offence relating to the driving of a motor vehicle (other than exceeding a speed limit) the Courts may cancel or suspend a licence, or if the offender holds no licence disqualify him from obtaining one. Particulars of the action taken must be indorsed on the licence.

Chapter V, Safety on Public Roads. In case of accident involving injury to property, person or animal the driver must stop and render assistance. He must give his name and address. If any person has been injured he must immediately report at a police station unless he has reported to a policeman on the spot. A driver who has injured any person and fails to stop and render assistance is liable to a maximum fine of £500 or two years' imprisonment with hard labour, or both, and his licence must be suspended for at least twelve months, or may be cancelled. In the areas of urban local authorities the speed limit is 30 miles, but an authority may reduce this to 20 miles at dangerous places, and even less if there are special circumstances to warrant this. Dangerous driving is dealt with under the following heads: (*a*) reckless driving; (*b*) driving under the influence of alcohol; (*c*) at a speed dangerous to the public; (*d*) in a manner dangerous to the public; (*e*) negligently, accompanied by injury to the person or damage to property; (*f*) without due care, or without reasonable consideration for other persons. The maximum penalty is £200 or twelve months, but for an offence under (*b*) the licence must at least be suspended for six months, and may be cancelled.

Every person in a motor vehicle involved in an accident must on demand give information to a policeman. Road racing, reliability trials, speed trials and hill-climbing competitions may take place only with the permission of a local authority, and the concurrence of the Administrator, and must be recommended by a properly constituted club.

Chapter VI gives the Administrator very wide powers to make regulations in order to give effect to the purposes of the Ordinance. In addition, local authorities are also empowered to make regulations in respect of matters of a local character, such as parking, appointment of parking attendants, protecting streets, controlling traffic, prescribing bus routes, etc. Local authorities must also provide for the inspection, twice a year, of vehicles plying for hire. If a policeman suspects that a motor vehicle is unroadworthy he may require it to be inspected and the examiner has power to prohibit its use. When a second-hand car is sold by a dealer the purchaser must obtain a certificate from the seller that it is fit for use. If a person obtains a second-hand car from a person who is not a dealer he must submit it for inspection and obtain a certificate of fitness. A policeman may call upon any driver of a car to stop, and give his name and address, and may demand the production of any licences required by the Ordinance. No motor vehicle may be parked within 25 feet of any corner of intersecting streets. It is an offence to drive a car upon a public road without the owner's consent. In Roman Dutch law there is no *furtum usus*, and this provision provides some protection against borrowing without leave. It is also an offence for a person, without permission of the owner, to shift the position of another's car in a parking area, unless he has reasonable cause or excuse for doing so.

Local Authorities (Audit).—Under the South Africa Act a Provincial Auditor is appointed to each Province, and relative to his Province he occupies the position of the Auditor-General of the Union. In other words, he is independent of the provincial administration. According to Ordinance No. 24 of 1930, the accounts of municipalities and certain other public charitable bodies—*e.g.* hospital boards—had to be audited by the Provincial Auditor or an auditor appointed by him. Ordinance No. 17 of 1938 makes the accounts of all local authorities subject to an annual audit by the Provincial Auditor or his appointee. Local authorities include municipal and divisional (rural) Councils, road boards, hospital boards, village management boards and local boards. Extensive powers are given to the Provincial Auditor to ensure proper surveillance of the books and accounts of such bodies. He may provide for a continuous or a completed audit and for surprise visits. Officials must submit all books, documents and vouchers. The Provincial Auditor has wide powers of disallowance and surcharge subject to a right of appeal to the Administrator. His report and a summary of the annual balance sheet must be advertised as open for inspection. The reports on audits must be sent to the Administrator for presentation to the Provincial Council. As a matter of practice, these are usually sent to the Committee on Public Accounts. The provisions of the Ordinance should do much to assure investors in local loans, creditors, rate-payers and the public generally that the financial affairs of local authorities are properly conducted.

Pounds.—Until the passing of Ordinance No. 18 of 1938 the law dealing with the establishment, regulation and control of pounds and trespassing by animals was to be found in Act No. 15 of 1892, and certain minor amendments scattered about in statutes dealing with certain

classes of local authorities. The present Ordinance, which is of considerable size, has consolidated and brought the law up to date. As before, the establishment and control of pounds is vested in the local authorities, and the different fees for different classes of animals (such as pound, mileage, trespass, sustenance, etc., fees) are laid down in the Schedules—but with this important difference, that the right to amend the scales has been given to the local bodies—subject to the Administrator's approval. The Ordinance which provides a complete code for the trespass of animals and the rights of property owners does not lend itself to detailed examination in a short survey such as this. It provides a further advantage—viz. it is available in both official languages, whereas the previous main Act existed only in English. In the rural areas, where the operation of the law touches the people more intimately and where the majority are Afrikaans-speaking—the new version will be greatly appreciated.

Trackless Trams.—Ordinance No. 20 is one of the few private measures passed by any of the Provincial Legislatures. It embodies and confirms a deed of agreement entered into between the Council of the City of Capetown on the one hand and the Tramway Companies on the other. It should be pointed out that Capetown (with the exception of Port Elizabeth) is the only city in South Africa where the public transportation system is not municipal. The present Ordinance enabled the companies to expedite the conversion of their systems from the old electric trams to trolley-buses.

Refund of Salary Deductions.—By Ordinance No. 24 of 1937 two-thirds of the deductions from the salaries of teachers and other officials, made in the depression period, 1931 and 1932, were restored. The present Ordinance No. 22 restored the remaining third.

Education.—Apart from one or two minor amendments of an administrative character, Ordinance No. 23 made some improvement in native education. It recognizes the establishment of higher boarding schools, and secondary (including high) schools for native pupils.

3. NATAL.

[*Contributed by the* HON. MR. JUSTICE CARLISLE.]

Fifteen Ordinances were passed by the Provincial Council during 1938. Four of these are appropriation measures, and one deals with pensions.

Local Government.—Four Ordinances come under this head. Ordinance No. 5 gives extended powers to the City of Durban. It amends the law relating to the qualifications of burgesses, and enacts that no person qualified to vote at municipal elections may be enrolled as a burgess in more than one ward. Thus plural voting is abolished.

Ordinance No. 7 grants extended powers to the Margate Health Committee in regard to supplying water, sewerage, drainage and electricity. Ordinance No. 14 empowers the Borough of Newcastle to borrow up to £75,000 for sewerage and other municipal undertakings.

Cremation.—Ordinance No. 8 regulates and controls the establishment, conduct and maintenance of crematoria. S. 2 provides that no crematorium may be established or constructed until the site and plans have been approved by the Administrator, nor may it be used for the cremation of human remains without his further approval, which he shall only grant when he is satisfied that it has been constructed as approved, and is properly equipped.

S. 3 empowers the Administrator to confer authority upon local bodies or societies or associations of persons having the management of public cemeteries to establish crematoria, if not already authorized by law to conduct them, subject to the terms of the Ordinance. Save in certain circumstances, no crematorium may be constructed within 200 yards of the boundary of land belonging to any other person, or within 50 yards of any public road or place. Very wide powers are given to the Administrator to make regulations in regard to the subject-matter of the Ordinance.

Trading Licences.—Ordinance No. 9 amends two sections of the Rural Dealers' Licensing Law Amendment Ordinance No. 4 of 1923, and repeals various other Ordinances which have ceased to be operative.

Wild Flowers.—Ordinance No. 10 provides for the establishment of wild flower reserves. These may be proclaimed by the Administrator within (*a*) any place upon Crown land reserved as a place of public resort, or of historical or scientific interest, which is managed by the Province under the Financial Relations Act; (*b*) any Commonage or town lands; (*c*) any game reserve and (*d*) any reserve held in connexion with a public road.

No person may gather, uproot, break or damage any flowers in any reserve save under a permit from the Administrator, or the local authority; nor may any person sell any wild flowers in any reserve save under permit.

Public Roads Motor Grids.—Ordinance No. 11 authorizes any person who has erected or who may erect a gate upon a public road under the authority conferred upon him by Act No. 9 of 1902 to apply for authority to construct a motor grid—that is to say, a track through an opening in a fence designed to permit the free passage of self-propelled vehicles while preventing the passage of animals.

Hospitals.—Ordinance No. 13 deals with public hospitals. The Administrator may establish, maintain, manage and control hospitals. He may reserve a hospital for persons of any particular class, whether according to sex, age, race or colour, or otherwise. He may appoint medical and other officers, matrons and nurses, attendants and servants. The management and control of hospitals is by means of regulations, in which respect very wide powers are conferred upon the Administrator.

The Ordinance authorizes the Administrator to make loans and grants in aid to hospitals not being of a private nature, when the profits derived therefrom are devoted to no purpose other than hospital purposes, and such hospitals are vested in a body having authority to borrow money upon security of the property vested in it.

The Administrator may stipulate as the condition precedent to the making of any such loan that the assets of the hospital, and all authority for its maintenance, management and control, shall be vested in a Board of Management. He may make regulations in regard to the appointment, qualifications, period of office, etc., of members of the Board, and in regard to its finance and audit of the books of account.

4. ORANGE FREE STATE.

[*Contributed by* H. PRING, ESQ.]

Sixteen Ordinances were passed by the Provincial Council of the Orange Free State during the year 1938—four of these were Appropriation Ordinances (Nos. 1, 2, 3 and 15).

Wheel Tax.—Ordinance No. 4 amends Ordinance No. 17 of 1931 and imposes a pecuniary penalty on tax defaulters. Any person who, being liable, fails to pay the tax on or before the prescribed date is required to pay, in addition to the tax, a penalty calculated at the rate of 10 per cent. of the amount of the tax for every month or part of a month during which such person is in default, provided that the amount of any penalty shall not exceed the amount of the tax.

Dog Tax.—Two amendments of the Dogs Ordinance 1932 were effected, viz.: Ordinance No. 5 imposes a pecuniary penalty on tax defaulters similar to that indicated under the Wheel Tax Ordinance No. 4. Ordinance No. 7 provides for (1) the reduction of the tax to five shillings per annum in respect of each of two dogs owned by a member of a Vermin Hunt Club; and (2) the repeal of the exemption from tax extended to a dog owned by a member of a Vermin Hunt Club.

Licences.—The Licences (Control) Ordinance No. 10 of 1934 has been amended by Ordinance No. 6 to provide for the addition of a conviction under the Foods, Drugs and Disinfectant Act, 1929 (Act No. 13), to the list of convictions which, in terms of s. 21 of the first-mentioned Ordinance, necessitate the renewal of a licence-holder's certificate.

Motor Vehicles.—The Motor Vehicle Ordinance, 1931, has been amended by Ordinance No. 8 to secure (*a*) that any person who fails to take out the annual licence shall be guilty of an offence and that courts when convicting such persons shall direct that the defaulter shall pay the licence duty and penalties within such period as the courts may determine. Failing the payment of such duty and penalties the court may sentence such person to imprisonment, with or without hard labour, for a period not exceeding three months; (*b*) that a motor vehicle (other than a motor vehicle on an occasion when it is being used for ambulance or fire-brigade purposes) shall not be driven through the built-up area of a local authority at a speed exceeding 30 miles an hour.

Local Government.—Ordinance No. 9 amends the Local Government Consolidation Ordinance, No. 15, of 1935. The principal amendments are (*a*) to add architects to the list of professions, the members of which as councillors can act for a town council without incurring the penalties for councillors interested in contracts with such councils; (*b*) to compel voters to register one vote in respect of each vacancy at elections of councillors; (*c*) to provide for the alienation of fixed property by a five-sevenths majority of the council; (*d*) to enable the Administrator to approve a standard set of accounts for smaller municipalities; (*e*) to enable municipalities to employ auditors other than those appointed by the Administrator; (*f*) to remove doubts as to the powers of municipalities to charge fees for extinguishing fires; (*g*) to compel a mayor to call a public meeting when requested by a certain proportion of the voters.

Roads.—The Roads Ordinance No. 6 of 1932 has been amended by Ordinance No. 10 to provide (*a*) for the establishment of road camps on any land and the payment to the owner of compensation or rent; (*b*) for the payment of compensation to the owner of land for material used in the construction or maintenance of public roads situated more than five miles beyond the boundaries of such land; (*c*) for the acquisition of land by purchase or expropriation for the establishment of road camps or obtaining road material.

Provision is also made for the improvement, maintenance or removal of a by-pass.

Shops.—S. 20 of the Shop Hours and Half-holiday Ordinance, 1925, prescribed the maximum hours during which assistants could be employed. This section was amended by s. 3 of Ordinance No. 4 of 1932 which excluded from the provisions of s. 20 assistants in respect of whom a determination under the Wages Act, 1925, or an award under Act No. 11 of 1924 had been made. Under Government Notice No. 1150 of July 10, 1931, a determination in respect of shop assistants under the Wages Act was promulgated, but no limitation of working hours was made thereunder. Ordinance No. 11 restores the original position in the case of the determination referred to, or in any other determination which contains no provision as to the limitation of hours.

Hospitals.—Ordinance No. 12 amends the Hospitals Ordinance, 1933, as follows: (*a*) S. 7 of the principal Ordinance provides for certain appointments to hospital boards to be made by the South African Medical Council. As the Council is not prepared to make the appointments the Administrator is empowered to do so in its stead; (*b*) the requirement that indigent persons shall be sent to the hospital nearest by rail to such person's residence is repealed; (*c*) the Administrator is empowered to vary the basis of the subsidies authorized by ss. 55 and 56 of the principal Ordinance; (*d*) new salary scales for certain hospital staffs are prescribed and the age limit at which probationers may be appointed has been reduced.

Tax on Persons and Companies.—Certain recommendations made by the Standing Committee on Provincial Taxation are embodied in Ordinance No. 13, which amends the Tax on Persons and Companies Ordinance, 1928. The main amendments are: (*a*) to widen the definition of taxable income by including dividends ordinarily exempt from Union Normal Tax; (*b*) to render liable to the tax on incomes of persons only the estates of persons who died during the tax year and to treat as married for the purpose of tax assessment a person who was the sole support of any incapacitated person; (*c*) to change the prescribed date for payment of the personal tax to October 4 or a later date prescribed by the Commissioner, to provide for the due date in the case of death, insolvency or liquidation, and to empower the Commissioner to collect the tax prior to the due date in certain circumstances; (*d*) re-enacts with certain modifications the exemption in favour of married women, indigents and natives, and further exempts aged persons in receipt of less than £100 per annum and accredited representatives of other Governments; (*e*) provides for a special penalty in case of failure to pay the personal tax.

Local Government Superannuation.—Ordinance No. 14 empowers local authorities to make provision as to retiring pensions or other financial benefits payable to persons employed by such authorities. S. 45 of this Ordinance repeals ss. 55 and 56 of the Local Government Consolidation Ordinance, 1935, except in so far as funds already established are concerned.

Townships and Hamlet.—S. 16 (5) of the Township and Hamlet Ordinance, 1928, directs that the establishment of any township on a site less than twenty miles from an existing town shall not be approved until the Administrator is empowered to do so by resolution of the Provincial Council. Ordinance No. 16 amends the principal Ordinance and empowers the Administrator to approve the establishment of a town-

ship on land less than twenty miles from an existing town without prior resolution of the Provincial Council if he is satisfied that mining operations will be carried on or industries established on such land or in its immediate vicinity.

5. TRANSVAAL.

[*Contributed by* A. A. Hope, Esq.]

In 1938 the Transvaal Provincial Council passed eighteen Ordinances, five of which were Appropriation Ordinances and the rest introduced minor amendments into existing legislation.

Fish Preservation.—The Ordinance of 1931 provided that it was an offence to be found taking or destroying fish in private waters without the permission of the owner. The wording of the section was such that unless an offender was caught in *flagrante delicto* no conviction could be sustained. A short amending Ordinance (No. 7) strengthened the law by making it an offence to take or destroy fish without the permission of the owner.

Education.—The Act of 1907 was amended (No. 9) by the insertion of powers to establish special schools or classes for sub-normal or abnormal children, and to make grants in aid of such schools. Such schools and classes had actually been established for several years, but there had been no proper legal power to expend money on them prior to this amendment except in the form of grants to charitable institutions.

The Union Government by Act 30 of 1937 provided for the Transfer of Agricultural Schools to Provincial Control, an Ordinance (No. 15) was accordingly passed by the Province placing these schools within the ambit of the Education Act of 1907.

Motor Vehicles.—The Ordinance of 1931 has been amended (No. 16) to tighten up the provisions relating to the registration of motor vehicles and to relax the provisions in relation to payment of the annual licence fees. Previously the annual licence fell due in January of each year and was subject to a penalty of 10 per cent. per month for late payment; this resulted in an enormous rush of work at licensing offices at the end of each January. Consequently the period for payment of renewal licences has been extended to March 3; provision has also been made for exemption from licences where the vehicle is unusable as a result of wear or of an accident. International certificates issued in terms of any International Convention relating to the driving and use of motor vehicles will exempt the holder, if domiciled outside the Union, from the obligation to procure either a driving licence or a vehicle licence while in the Transvaal. A new provision is that when a court has cancelled a driver's licence no new licence may be issued without the consent of the Administrator. Hitherto a new licence could be applied for as a right after the lapse of three years from the cancellation.

Town Planning.—The Ordinance of 1931 provided that plans for the future development of towns might be drawn up and after opportunity for objection might be confirmed by the Administrator and thereafter enforced. Most of the larger municipalities have been engaged since then in drawing up plans and naturally have on a number of points been faced by opposition both from vested interests and from speculative landowners. A further amending Ordinance (No. 10) has now been passed allowing more detailed powers in the town-planning schemes and giving further powers for the acquisition of land by municipal authorities.

It also widens the powers of municipalities to pay compensation where existing rights are infringed and to control projected buildings which would conflict with the plan in the period before it is confirmed.

Hospital Nurses.—The age at which hospital nurses may be compulsorily retired has been raised from 50 to 55 by Ordinance No. 11.

Roads.—The Main Reef Road along the Witwatersrand has been maintained out of Provincial funds and not by the municipalities through which it runs. As a National Road Fund is now in operation which provides for subsidies for municipalities, through which main roads run, this arrangement has been repealed (No. 12), power has been given to the Administrator to make these payments out of moneys received by him from the Roads Board.

Taxation.—Minor amendments of the Ordinance imposing a tax on companies and the personal or poll tax have been made. Under the Personal Tax Ordinance, a poll tax was levied on all adult males at a differential rate for married men and bachelors. In future, by Ordinance No. 14, bachelors who have dependants will be placed in the same category as married men.

6. NORTHERN RHODESIA.

[It is hoped to publish the review in the next issue.]

7. SOUTHERN RHODESIA.

[*Contributed by* R. J. Morton, Esq., M.C., K.C., *Solicitor-General.*]

Amongst the forty-four public Acts passed in the fourth session of the Fourth Parliament there was some important new legislation, though it was comparatively small in volume.

Electoral.—When the Constitution was granted in 1923, registration of Parliamentary voters took place in every second year, and the boundaries of electoral districts could only be altered once in every four years by Act of Parliament passed after an alternate biennial registration. The system of biennial registration having been superseded by one of continuous registration, No. 31 amends the Constitution to provide for a commission to consider new delimitations of districts in every fifth year. This five-year interval will coincide with the usual interval between censuses, and any new delimitations recommended by the commission will be put into effect by Governor's proclamation.

No. 23, which makes minor amendments to the electoral laws, evades certain constitutional difficulties, which stand in the way of a normal " reprinting " clause, by authorizing the commissioners who are preparing the revised edition of the statutes to make a special consolidation of the electoral laws for separate publication.

Court of Appeal.—No. 33 establishes a joint Court of Appeal for Southern and Northern Rhodesia. All judges of the Colony and of the Territory are members of the Court under the presidency of the Chief Justice of Southern Rhodesia, and three of them constitute a quorum. From Southern Rhodesia the Court hears only criminal appeals which lie from decisions in criminal trials held by the High Court on questions of law, fact or mixed law and fact, and against sentence. The appellate jurisdiction of the Appellate Division of the Supreme Court of South Africa remains undisturbed. Consequently, appeals may still be made direct

from the High Court to the Appellate Division in all appealable civil matters, on questions of law from criminal trials held by the High Court, and on all questions in criminal matters decided by the High Court on appeal from inferior courts. The net gain arising from the new Act accrues only to those convicted by the High Court and consists of the opportunity, hitherto denied, of appeal on questions of fact and against sentence, and of an alternative and nearer court of appeal on questions of law. The Governor, when considering the exercise of the prerogative of mercy, may refer whole cases or special points to the new Court.

Although the Nyasaland Protectorate has not yet taken advantage of it, the Act provides for extending the jurisdiction of the Court to appeals from the High Court of Nyasaland, if ever the legislation necessary for the purpose has been enacted by the legislature of that territory.

High Court Rules.—Existing rules of court governing civil procedure and practice came from various sources; some had been made by the judges, some were integral parts of old Cape Acts of Parliament and others had been made, and could only be altered, by the Governor. No. 17 repeals all existing rules and substitutes a completely new set; in future the judges will be the only makers of rules.

Legal Profession.—The law on the admission of advocates of the High Court, which was inherited in the last century from the Colony of the Cape of Good Hope, had in course of time developed many anomalies. Advocates of the Supreme Court of South Africa could not be admitted unless they had been, or were qualified to be, admitted as advocates of the Cape Provincial Division of that Court; holders of an LL.B. conferred by any university in South Africa were entitled to admission without delay, but the only degrees of other universities which were so recognized were those of "doctor of laws at our universities of Oxford, Cambridge or Dublin." No. 28 removes these anomalies. English and Irish barristers-at-law, Scottish and South African advocates, holders of the degree of LL.B. of Cambridge, Dublin, London or any South African university, or of B.C.L. or B.A. with honours in jurisprudence of Oxford—all are now on the same footing, but, unless entitled to exemption, must before admission pass an examination in local law. The judges may, by rule, approve of degrees in law of other universities in Great Britain or Ireland. Though we rarely have an opportunity of welcoming them, visiting King's Counsel may be relieved to hear that they are totally exempted from the local examination.

No. 30 deals with the admission of attorneys, notaries and conveyancers. It increases the normal period of articles from three years to five, with modifications for advocates, barristers and holders of certain university degrees. Solicitors from the United Kingdom and from other parts of the Empire must before admission pass an examination in local statute law and practice. Only practising attorneys who have passed the prescribed examinations may be admitted as notaries or conveyancers. The Act follows English law in compelling attorneys to keep separate trust accounts for clients' moneys. One new clause, which survived concerted opposition, prohibits any person other than a legal practitioner from instructing or assisting, in return for fee or reward, any other person to sue out or threaten to sue out any summons or other legal process.

Education.—In No. 35, which takes the place of an early Education Ordinance passed before there were any Government schools in the

Colony, there are two provisions of interest. All primary and secondary education in Government schools is made free of charge to children whose parents are domiciled in the Colony. The valued " right of entry " for religious instruction is preserved by a clause which enacts that in every Government and in every aided school one half-hour of every morning after the hour of assembly shall be at the disposal of ministers of recognized religious denominations for religious instruction of the children belonging to such denominations ; the privilege may be withdrawn from any denomination which does not regularly use it.

Coinage and Currency.—British silver and bronze coins, which have been current here from the beginning of the Colony's history, cease to be current from the commencement of No. 32, though the Act hopefully declares that British gold coins shall still continue to be legal tender. A Southern Rhodesia Currency Board is established to take over the issuing of our own coinage and to issue new currency notes in place of the notes issued by local banks ; bank notes will continue to be legal tender for a period of two years after the first issue of currency notes. The local currency will be pegged to sterling and backed by a currency fund from which no profits may be taken until its value has risen 10 per cent. above the value of the coins and notes in circulation. If they enter into currency agreements with Southern Rhodesia, both Northern Rhodesia and Nyasaland may claim representation on the Board and share in any surplus in the Currency Fund.

Mines and Minerals.—Besides making many other amendments to the mining law, No. 25 puts the mining of precious stones on the same legal basis as other mining and regulates trading in rough and uncut diamonds. This step was made possible by an agreement, ratified by the Act, between the Government and De Beers Consolidated Mines, Limited, which settles a long-standing controversy over diamond rights. Under the agreement the area covered by the Company's concession will decrease year by year until the concession is finally extinguished in 1958.

The Act also encourages gold production from low-grade ore by establishing new procedure for obtaining remission or reduction of royalty in suitable cases.

Printed Publications.—One small but useful innovation in No. 5, which consolidates and amends the law relating to the registration of newspapers and the printing and publication of books, requires the publisher's imprint to show the year of publication.

Soil Conservation.—Two of the apparently simple amendments made to the Water Act by No. 22 are designed to prevent soil erosion. They extend the jurisdiction of water courts to matters in dispute regarding the use, diversion, control or appropriation of storm water, which is defined as all flow of water directly due to rainfall, before such water joins a public stream. Of the three clauses which deal openly with soil conservation, one increases the administrative functions of the courts in a curiously roundabout way. Local soil-conservation boards, whose main purpose is to demonstrate the evils of soil erosion and encourage its prevention, may " recommend " measures to be taken by any person as to the disposal or control of storm water on his land ; but if any such person neglects or refuses to carry out any such measures, " the board shall report the circumstances to the Minister, who may refer the same to a water court, which, after due enquiry, shall make such order as may seem fit."

VII. BRITISH INDIA.

1. CENTRAL LEGISLATURE.

[*Contributed by* G. M. RATCLIFF, Esq., I.C.S.]

The Federation provided for in Part II of the Government of India Act, 1935, remains to be established, and the activities of the Central Legislature during the year under review continued to be governed by the provisions of the old Government of India Act as continued in force by Part XIII of the new Act.

In one case only the Governor-General was constrained to resort to the powers conferred by s. 67B of the Old Act for securing the enactment of legislation which a Chamber of the Central Legislature had declined to pass. The case in question was that of the annual Finance Bill which the Assembly refused to take into consideration on grounds which were avowedly extraneous to the merits of the Bill. The Bill enacted by the Governor-General as the Indian Finance Act, 1938, made the normal annual provision to determine the rates of salt duty, postal charges, income- and super-tax for the financial year 1938–9.

The legislation enacted by the Central Legislature in 1938 comprised twenty-six measures of which one, the Insurance Act, was of major importance. For the rest the legislation of the year was mainly in the social and humanitarian fields.

One Regulation was made by the Governor-General in 1938. It provided for the control of sea fishing in the waters surrounding the Andaman and Nicobar Islands and was made under the provisions of s. 96 of the Government of India Act, 1935, read with subs. (3) of s. 95 of that Act.

The enactments of the Central Legislature are dealt with in more detail below.

Trade, Business and Commerce.—The Insurance Act[1] (No. 4 of 1938) consolidates and amends the Indian law previously existing which related to insurance companies and provident societies. The Act was necessitated by the considerable increase in volume of all forms of insurance activity in India. Much of this increase was of an unhealthy nature and arose from the exploitation rather than the wise development of the newly-awakened public interest in insurance matters. The Act is therefore largely concerned with the protection of the Indian public by rendering more difficult fraud, unsound finance, and the adoption of unsound actuarial principles, but it also confers a preference in various ways on indigenous companies with a view to checking competition from companies of external origin. The following more important matters may be mentioned in broad outline. The well-known deposit system, designed to prevent the formation of companies with inadequate financial backing, is extended to cover all classes of business and except in the case of provident societies is related to a time-table without regard to the actual premium income, and applies both to new and old formations until the minimum sum required is attained. Another most important innovation is the requirement that a proportion, in the case of indigenous and U.K. companies, and the whole in other cases, of the assets representing the actuarial reserves in respect of the life liabilities shall be invested in

[1] Mr. J. H. Thomas, Superintendent of Insurance, has kindly contributed this section on the Insurance Act.

certain specified classes of securities. Provision has also been made to bring the managing agency system to an end within three years, while insurance agents are required to secure licences before they can undertake their functions and to submit to certain restrictions on their scales of commission. Restrictions are also placed on the payments of rebates. The system of accounts and returns has been redesigned with a view to affording the fullest publicity to the affairs of both companies and societies; moreover every company which is not a provident society must have on its board a definite proportion of directors elected directly by the policy-holders. Finally, power is given to the authorities to impose special reciprocal disabilities on non-Indian insurers whose countries of domicile impose special disabilities on Indian concerns wishing to transact business there.

The Indian Companies (Amendment) Act (No. 2 of 1938) corrects certain inconsistencies and inaccuracies which crept into the Indian Companies Act of 1913 as a result of its extensive amendment in 1936.

The Indian Tea Control Act (No. 8 of 1938) replaces the Indian Tea Control Act of 1933, the period of operation of which expired on March 31, 1938. The new Act was passed to implement the revised international agreement between Ceylon, British India and the Netherlands Indies for the restriction of export of tea and for the control of its cultivation. The export restriction is effected on an equitable basis by prescribing export quotas of tea for all individual tea producers. The total annual increase of area of tea cultivation in British India is limited to ½ per cent. of the area under tea cultivation in the preceding year.

The Sugar Industry Protection (Temporary Extension) Act (No. 14 of 1938) extends temporarily for one year the operation of the Sugar Industry Protection Act of 1932. A revision of policy in regard to the industry was under contemplation, but the Government had had insufficient time to examine the report of the Tariff Board on the state of the sugar industry and so the passage of temporary legislation was rendered necessary.

The Indian Tariff (Amendment) Act (No. 16 of 1938) continues in force for a further period of one year the protective duty of 12 annas per maund on broken rice imported into British India.

Labour.—The Employers Liability Act (No. 24, of 1938), which will be of special interest in English legal circles, precludes an employer from raising a defence based on the doctrine of common employment or assumed risk in a suit for damages by an employee who has sustained personal injury in the course of his employment.

The Trades Disputes (Amendment) Act (No. 17 of 1938) has strengthened the provisions of the original Act (No. 7 of 1929) in regard to the prevention and punishment of illegal strikes and lockouts. The principal change made by this Act is, however, constructive. Provision has been made for the appointment by Government of conciliation officers in industrial areas for the purpose of mediating in or promoting the settlement of trade disputes. The Act also enlarges the meaning of trade dispute by including in it any dispute between employers and employers.

The Workmen's Compensation (Amendment) Act (No. 9 of 1938) provides *inter alia* for the addition of compressed-air illness, and poisoning by nitrous fumes or lead tetra ethyl to the list of occupational illnesses in respect of which a workman may claim compensation from his employer although he may have been employed for a less period than

six months. The Employment of Children Act (No. 26 of 1938) was enacted in implementation of a Convention passed at the 23rd Session of the International Labour Conference. This Act fixes the minimum ages at which children may be employed in the handling of luggage and cargo on wharves and quays, and in work associated with the transport of passengers, goods and mails by rail, as 14 years and 15 years respectively.

Defence.—The Criminal Law Amendment Act (No. 20 of 1938) which arose out of an anti-recruiting campaign in the Punjab makes punishable with imprisonment any person who dissuades or attempts to dissuade the public or any person from entering the military, naval or air forces of His Majesty, and also anyone who instigates any person entering such forces to commit mutiny or insubordination after they have joined such forces. The Manœuvres, Field Firing and Artillery Practice Act (No. 5 of 1938) places on a statutory basis the arrangements affecting the civil population of an area in which manœuvres are held. The Act makes provision for the equitable adjudgment of compensation to anyone whose property is damaged or rights invaded by these military operations.

Prevention of Cruelty to Animals.—The Prevention of Cruelty to Animals (Amendment) Act (No. 25 of 1938) amends and expands the original Act of 1890. The attitude of the public towards the subject of this Act, and the circumstances in which in modern times draught animals have to work, have materially changed in the interval between 1890 and now, and have rendered the present Act necessary and acceptable to public opinion. In particular the Act contains strong measures for bringing about the suppression of "phooka," a painful and unnatural process whereby some milkmen in India attempt to increase and drain off the milk secretion of a cow and other milch animals. The Act also particularizes and makes specific offences many other types of cruelty to animals, and provides for the prevention or abatement of these varieties of cruelty and for the punishment of the offences created.

Personal Law.—Two Acts (Nos. 7 and 19 of 1938), both sponsored by private members, have been passed amending the Child Marriage Restraint Act of 1929, commonly known as the Sarda Act. The first amending Act prevents evasion of the provisions of the Sarda Act by making the latter Act applicable to British subjects wherever they may be in India. This was necessary, as persons wishing to solemnize a child marriage had found it possible to evade the law by carrying out the marriage in an Indian State. The second amending Act is also an attempt to render the Sarda Act more effective in practice. It empowers a Court, on receiving information that a child marriage has been arranged or is about to be solemnized, to issue an injunction prohibiting the marriage. The Act evoked considerable opposition from orthodox sections of opinion.

The Cutchi Memons Act (No. 10 of 1938), also a private measure, makes Muhammadan Law applicable to the persons belonging to the Muhammadan religious community known as the Cutchi Memons, who were previously governed by Hindu Law. The Hindu Women's Rights of Property (Amendment) Act (No. 11 of 1938) corrects an ambiguity in the original Act.

Public Health and Prevention of Insect Pests.—The Indian Aircraft (Amendment) Act (No. 22 of 1938) enables the Central Government to take emergent measures to prevent the spread of disease through carriage

by aircraft. The Destructive Insects and Pests (Amendment) Act (No. 6 of 1938) enlarges the control of the Central Government over the spread of plant infection in India. It enables the Central Government to prohibit or regulate the movement from one part of India to another of living plants and live insects likely to cause infection to any crop. The power was particularly needed in order to combat the spread of a serious fruit pest, " San Jose Scale," known to exist in parts of India.

Miscellaneous.—Under s. 13 (1) of the Indian Emigration Act of 1922 the Governor-General in Council may prohibit any persons emigrating to any country outside India for the purpose of engaging in unskilled work if such persons are leaving on a contract of hire or are being assisted to leave. The Indian Emigration (Amendment) Act (No. 21 of 1938) provides that this prohibition by the Central Government may be applied to any person emigrating to a country outside India, although not assisted to leave or on contract of hire. The Dangerous Drugs (Amendment) Act (No. 3 of 1938) renders more effective the implementation by the Government of India of the Dangerous Drugs Convention of 1925. The Act makes it an offence to bring any dangerous drug by ship into a British Indian port, although no part of the consignment of the drug is for delivery at that port, and the drug is merely in the process of transit to some place outside India. The Durgah Khwaja Saheb (Amendment) Act (No. 23 of 1938) corrects minor mistakes and irregularities in the original Act (No. 23 of 1936) which relates to the administration and management of an endowed tomb in Ajmer.

The Sind Salt Law Amendment Act (No. 13 of 1938) is a formal Act which rectifies anomalies in the Sind Salt Law which had arisen as a result of the commencement of the Government of India Act, 1935. The Delhi Joint Water Board (Amendment) Act (No. 18 of 1938) extends the scope of the original Act by making statutory provision for the unified control and administration of the sewage systems of the whole Delhi area. The Repealing Act (No. 1 of 1938) provides for the specific repeal of enactments which were spent or had otherwise become unnecessary. The number of the enactments repealed was in this year considerable, as the recent insertion of s. 6A in the General Clauses Act, 1897, abolished the necessity to keep alive amending Acts of which the only effect was to make textual alterations in previously existing Acts.

2. MADRAS.

[*Contributed by* P. Appu Nair, Esq., O.B.E., *Secretary to Government Legal Department.*]

Acts passed—21.

Borstal Institutions.—Act No. 11 authorizes Honorary Presidency Magistrates in the City of Madras who are empowered by Government to sit singly to pass sentence under the Borstal Schools Act and it also enables Honorary Presidency Magistrates who are not empowered to pass sentence under the Act to submit the proceedings in any case to the Chief Presidency Magistrate or to some other salaried Presidency Magistrate designated by him.

Civil Disabilities Removal.—Act No. 21 declares that certain classes of persons known as Harijans, depressed class and the like shall not be prevented or disabled from being appointed to any public office or having access to any public place or institution and that no Court shall

recognize any custom or usage which imposes any civil disability on such persons.

Famine Relief.—Act No. 9 provides for the investment and re-investment of the moneys in the Madras Famine Relief Fund in the securities of the Government of Madras in addition to those of the Government of India. The Act also provides that all sums payable to the Fund under the Act shall be expenditure charged on the revenues of the Province.

Landlord and Tenant.—Act No. 12 is an amendment to s. 185A of the Madras Estates Land Act, 1908, and provides for the extension by one year of the period allowed for preferring applications by landholders in certain cases for the establishment of their kudivaram right in inam villages.

Local Government.—Act No. 1 omits the minimum limits of salaries of certain officers of the Corporation of Madras fixed by the principal Act (No. 4 of 1919) and gives power to the Corporation to fix and vary from time to time the salaries and allowances of those officers subject to the sanction of the Government.

Act No. 2 makes the qualifications for electors to local bodies (including the Corporation of Madras) the same as those prescribed for electors to the territorial constituencies of the Madras Legislative Assembly. It also provides for the adoption of the relevant portions of the electoral rolls prepared for the Madras Legislative Assembly as the electoral rolls for local bodies (including the Corporation of Madras) with a view to save the cost of preparing separate electoral rolls for them.

Act No. 8 curtails the term of office of the members of certain local boards with a view to holding elections to those boards in the months of September and October 1938.

Act No. 18 amends the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920. It empowers the Government to make rules prescribing the control to be exercised over municipal councils and local boards in administering undertakings for the generation, transmission, supply and use of electric energy.

Lunatics.—Act No. 15 amends the Indian Lunacy Act, 1912, so as to provide for (1) the discharge of a lunatic temporarily on grounds of health and (2) the recovery of the maintenance charges of a lunatic in certain cases not provided for under the previous Act. The Act also makes it incumbent on Courts when ordering the recovery of the cost of a lunatic's maintenance out of his estate to make due allowance for the needs of his wife, children and other dependants.

Medical Registration.—Act No. 16 makes the Madras Medical Council predominantly an elected body and throws open the presidentship of the Medical Council to election after a period of four years from its reconstitution. It also provides that the names of the registered medical practitioners should be arranged in their alphabetical order in the medical register instead of grouping them under different parts according to the nature of their registrable qualifications.

Minor Ports Fund.—Act No. 19 provides that the balance standing on March 31, 1939, to the credit of the Minor Ports Fund in excess of twenty lakhs of rupees shall be credited to and disposed of along with the rest of the provincial revenues and that such portion of the balance standing to the credit of the Fund on March 31, 1940, or in any subsequent year as the Government may, with the approval of the Madras Legislative

Assembly, determine shall be credited to and disposed of along with the rest of the provincial revenues.

Prisons.—Act No. 14 amends the Prisons Act, 1894, and the Indian Lunacy Act, 1912, to enable the Superintendent of a prison to send a prisoner for treatment to a hospital or asylum on taking a bond from his relative or friend.

Prohibition.—Act No. 10 prohibits all advertisements of medicated wines and the like in the Province except in medical journals or in notices and literature circulated exclusively to members of the medical profession.

Act No. 17 provides for the issue of the necessary authorities for the possession and the use of liquor for any *bona fide* religious purpose in the dry areas in the Province.

Road Development.—Act No. 3 provides that all amounts payable to local bodies under s. 10 of the Madras Motor Vehicles Taxation Act, 1931, shall be expenditure charged on the revenues of the Province.

Act No. 5 is intended to provide for the vesting in a single authority subject to safeguards the control of road traffic. Such control was formerly exercised partly by the Government and partly by the local authorities.

Act No. 6 gives power to the Government to levy tolls for a specified period in respect of a road or bridge which is constructed or repaired at the expense exclusively of a local body or bodies or partly of the Government. The levy is to be restricted to the recoupment by the local body and the Government of the actual expenditure incurred, together with interest thereon.

Rural Indebtedness.—Act No. 4 is intended to give relief to indebted agriculturists by scaling down their existing debts, by reducing the rate of interest on their future debts and by writing off certain old arrears of rent due to Zamindars and other landholders in certain circumstances and on certain conditions being fulfilled.

Suppression of Immoral Traffic.—Act No. 7 amends the Madras Suppression of Immoral Traffic Act, 1930. It has been made an offence for any person not below the age of eighteen to live on the earnings of the prostitution of another person. All offences under the Madras Suppression of Immoral Traffic Act have been made cognizable.

Temple Entry.—Act No. 20 enables the throwing open of any Hindu temple in the Malabar district to the excluded castes of Hindus if the opinion of the majority of Hindu voters in the revenue taluk in which the temple is situated is in favour of allowing such entry. The legislation is permissive in character and is intended to meet the growing demand for the removal of disabilities imposed by custom and usage on certain classes of Hindus.

Miscellaneous.—Act No. 13 is a repealing and amending Act which is intended to remove from the Statute Book certain Acts which had become spent or inoperative and to make formal and consequential amendments in certain other enactments.

3. BOMBAY.

[*Contributed by* JAGANNATH RAVJI DHURANDHAR, ESQ., O.B.E., *Secretary to Government Legal Department.*]

During 1938, eight Acts were passed by the Bombay Legislature and, having received the assent of His Excellency the Governor or His Excel-

lency the Governor-General, as the case required, became law. The main purposes to the various Acts are briefly stated below:

Local Boards.—Act No. 1 amending the Bombay Local Boards Act, 1923, abolishes nominations in the case of all local boards, and gives elective representation by means of reservation of seats in joint electorates to Harijans and backward tribes and, where necessary, to women and to minority communities for whom separate constituencies have been formed in the legislatures under the Government of India Act, 1935. It also gives an option to the Muhammadan voters in any Muhammadan constituency, after making a declaration, by a majority, that the said Muhammadan constituency be abolished, to have representation in general constituencies.

Local Government.—Act No. 2, The City of Bombay Municipal (Amendment) Act was enacted with a view to raising the standard of efficiency in the audit of accounts of the Bombay Municipal Corporation. Under the old arrangement, two auditors were appointed annually by the Corporation and, although such appointments were frequently renewed from year to year, the short term for which each appointment was made was found to result in insecurity of office and a lack of continuity in the system of audit. The Act introduces new provisions under which the audit of the municipal accounts will be conducted by a separate department under the charge of a permanent municipal Chief Auditor to be appointed by the Corporation.

Act No. 5 made various amendments in the several sections of the City of Bombay Municipal Act, 1888. The more important of them are designed (1) to give power to take certain measures for the eradication of malaria; (2) to rectify certain defects in connexion with the water supply which stood in need of removal in order effectively to carry out anti-malarial measures; (3) to give power to the Corporation to issue revised debentures in any case; and (4) to extend the powers of the Standing Committee and the Municipal Commissioner in the matter of reappropriation of budget grants.

Act No. 3 extends the term of office of the existing members of the Bombay Corporation by one year, to avoid a fresh election pending the contemplated revision of the Act to widen and readjust the existing franchise of the Bombay Municipal Corporation, and to revise its constitution with the object of placing the same on a more democratic basis.

Taxation.—Act No. 4 was enacted to provide that in cases in which Government make a declaration to that effect, the tax proposed in the Bill shall become leviable from the day on which the Bill was published.

Tobacco.—Act No. 6 amends the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933. The object of amendments in the first Act is to increase the licence fees in the City of Bombay according as the tobacco is of an inferior or of a superior kind. The amendments in the Bombay (District) Tobacco Act are designed to make the Act permanent and to shift the main burden of the licence fees generally from the retailer to the wholesale dealer.

Finance.—Act No. 7 continues for one more year the Bombay Finance Act of 1932, containing provisions for the imposition of an electricity duty and for varying fees under the Court Fees Act and the duties under the Indian Stamp Act. As regards the electricity duty, power was taken to raise the existing duty of half an anna per unit of energy consumed by lights and fans to three-quarters of an anna in certain selected areas.

In regard to the Stamp duties, the duty on notes or memorandum of agreement, both between brokers and principals, and between principals and principals, was doubled, that is, instead of 2 annas for every Rs. 5,000, it was raised to 2 annas for every Rs. 2,500. It also subjected to duty transactions between brokers acting on their own account, which had escaped taxation altogether.

Agricultural Relief.—Act No. 8, providing temporary relief of small-holders in the Province of Bombay, was enacted to postpone the execution of decrees passed against small agriculturists up to April 1, 1939.

Bombay.—Act No. 9 (an Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes) abolishes nominations in the case of all municipal boards and gives representation, by means of reservation of seats in joint electorates to members of backward classes, minorities and women. It also gives an option to the Muhammadan voters of any municipality to declare that separate Muhammadan constituencies should be abolished, in which case they would get representation by reservation of seats in general constituencies.

Act No. 13 (an Act to amend the City of Bombay Municipal Act, 1888) has, *inter alia*, effected the following important changes: (1) Abolition of nominations. (2) Introduction of the system of adult franchise for the purpose of the elections to be held in 1942 and thereafter; and (3) redistribution of wards.

Bombay Racecourse.—Act No. 10 is enacted to make it clear that the conditions which Government may impose under the existing Bombay Racecourses Licensing Act, 1912, may provide for the payment of a licence fee to Government and for such other matters, directly or indirectly connected with horse racing, as Government may deem fit.

Act No. 11 is an enabling piece of legislation which removes all legal difficulties in the way of those trustees of public temples who are convinced of the justice of the claim of Harijans to make use of Hindu public temples in throwing open the temples under their control to Harijans.

Education.—Act No. 12 is enacted with a view to remove certain difficulties experienced in the working of the Bombay Primary Education Act, 1923, and to make better provision for the management and control of primary education. The important change made by the Act is that the power of appointing administrative officers of school boards, as also the inspecting staff, will in future vest in Government. It also provides for the establishment of a Provincial Board of Education to advise Government in all matters connected with primary education.

Bombay Police.—Act No. 14 (an Act to amend the City of Bombay Police Act, 1902) enables the Commissioner of Police to direct any person to remove himself from the City of Bombay, if in the opinion of the Commissioner his presence, movements or acts is or are causing or calculated to cause danger or alarm, or a reasonable suspicion exists that unlawful designs are entertained by such person.

Lunacy.—Act No. 15 (an Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay) enables the authorities concerned to remove a lunatic from an asylum or mental hospital in which he is detained and place him temporarily in charge of his relative or friend.

Land Acquisition.—Act No. 18 (an Act to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay) reduces from

6 per cent. to 4 per cent. the rate of interest payable on the amount of compensation awarded to holders of land when their lands are compulsorily acquired.

Probation of Offenders.—Act No. 19 enlarges the provisions of s. 562 of the Code of Criminal Procedure, 1898, for the release on probation of offenders, and provides particularly for the supervision of certain offenders by a probation officer named by the court.

Cotton.—Act No. 20 (an Act to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Province of Bombay) makes it clear that (1) the mixing of cotton waste with cotton and (2) the deliberate watering of cotton even when that watering is so regulated as not to cause the water contents of the cotton to exceed the limit prescribed for determining whether cotton has been watered, are offences.

Forfeited Lands.—Act No. 22 (an Act to provide for the restoration of lands forfeited during the Civil Disobedience Movement for the non-payment of Land Revenue and other sums due to Government) is intended to make provision for acquiring lands forfeited to Government during the Civil Disobedience Movement in order to restore them to the original holders according to the policy of the present Government, and to lay down principles for the determination of compensation for the acquisition of such lands.

Octroi.—Act No. 23 (an Act to amend the Bombay Local Boards Act, 1923) brings the local Boards Act into line with the District Municipal Act and the Municipal Boroughs Act in so far as the recovery of octroi is concerned. It is intended to help the district local boards to recover octroi on goods imported within their limits.

Registration.—Act No. 24 (an Act to amend the Indian Registration Act, 1908, in its application to the Province of Bombay) has effected in the Registration Act certain amendments found necessary in view of past experience and also in view of some important improvements that had been brought about in the process of photo-copying documents.

Industrial Disputes.—Act No. 25 makes provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and for certain other purposes.

Medicine.—Act No. 26 (an Act to regulate the qualifications and to provide for the registration of practitioners of Indian systems of medicine with a view to encourage the study and spread of such systems, and to amend the law relating to medical practitioners generally in the Province of Bombay) is intended to provide for the registration of persons who practise Ayurvedic and Unani systems of medicine and to protect the public from the activities of uneducated and half-educated quacks of all systems of medicine.

4. BENGAL.

Ordinances passed—7 and 2.

Famine Insurance.—No. II provides for the establishment and maintenance of the Bengal Famine Insurance Fund for expenditure upon relief of, and insurance against, famine and distress caused by serious drought, flood, earthquake or other natural calamities.

Land Transfer.—No. VI contains a series of amendments to the Bengal Tenancy Act, 1885, dealing with the manner of transfer and notices to landlord and co-sharers.

Official Receiver.—No. vii provides for the administration and control of the office of Official Receiver of the High Court in Calcutta.

The two additional Ordinances are promulgated by the authority of the Governor and deal with the registration of the transfer of land and the urgent necessity in the public interest to restrict the manufacture of jute products.

5. UNITED PROVINCES.

[It is hoped to publish a summary in the next Review.]

6. PUNJAB.

[*Contributed by* E. C. MARTIN, ESQ., I.C.S., *Secretary to Government Legislation Department.*]

Acts passed—10.

The Suit Valuation (Punjab Amendment).—Act No. 1 amends the Suits Valuation Act, 1887, in its application to the Punjab in order to provide for the valuation for jurisdictive purposes of suits brought by reversioners under the Punjab Customary Law for a declaration in respect of alienation of ancestral land.

Alienation of Land (Amendment).—Act No. 2 provides that no land should, without the consent in writing of the owner, be put to any use which is destructive of or permanently detracts from the value of the land for purposes of agriculture. It further removes the ambiguity that the period of twenty years for which a member of an agricultural tribe could alienate his land, and a civil court could also, in execution of a decree against him, order temporary alienation thereof for such period, cannot be extended by any device.

Act No. 5 provides for restrictions on the permanent alienation of land to agriculturist money-lenders, and, in this respect, virtually places them on the same footing as agriculturists.

Act No. 8 empowers the Deputy Commissioner to enforce an order passed under the preceding Act and makes his orders appealable; and it also substitutes the term "alienation" therein for the term "permanent alienation."

Act No. 10 enables the Deputy Commissioner to determine finally whether any person is to be deemed a member of an agricultural tribe or not. It also prevents fraudulent transactions and provides for the reversal of a *benami* transfer of land, which evaded the provisions of the Alienation of Land Act, and empowers the Deputy Commissioner to restore possession of such lands to the original alienor.

Registration of Money-lenders.—Act No. 3 makes the registration of money-lenders and holding of a valid licence by them necessary before they can file a suit in a civil court for recovery of a loan, or apply for the execution of any decree relating to a loan.

Restitution of Mortgaged Lands.—Act No. 4 provides for the termination of mortgages of lands effected before June 8, 1901, *i.e.* the date on which the Punjab Alienation of Land Act came into force, and which still subsists, on payment of reasonable compensation, when necessary, and for the restitution of the lands so mortgaged.

State Aid to Industries (Amendment).—Act No. 6 makes the term of membership of the Board of Industries coterminous with the life of the Punjab Legislative Assembly, which is ordinarily five years.

Sikh Gurdawaras (Amendment).—Act No. 7 corrects the description of the local areas of Taran Taran and Nankana Sahib in the Sikh Gurdawaras Act, 1925, which have become municipalities.

Debtors' Protection (Amendment).—Act No. 9 prohibits the execution of decrees by the appointment of receivers to administer property, which is protected from attachment or sale; and also provides for the termination of the existing receiverships within six months from the date on which this Act comes into force, unless terminated earlier by the court which made the appointment.

7. BIHAR.

[*Contributed by* J. A. SAMUEL, ESQ., B.A., LL.B., *Deputy Secretary to Government.*]

Eleven Acts were passed by the Bihar Legislature during the year 1938.

Bengal Troops Transport and Travellers' Assistance Regulation.—Act No. 1 was passed with the object of abolishing the power of impressment of transport and facilities for travelling for civil officers and private travellers.

Chota Nagpur Tenancy.—Act No. 2 introduces important amendments in the existing law, the most important of which provide for the reduction of the rents of the tenants of agricultural lands and the relaxation of the restrictions on the right to transfer such lands.

Money-lenders.—The main object of Act No. 3 is to relieve indebtedness in the Province and to regulate the business of money-lending by requiring the registration of money-lenders and restricting the maximum rates of interest which can be charged on loans. A money-lender is prevented by the terms of the Act from recovering as principal and interest more than double the amount of a loan advanced by him. Special provision is made for the exemption from sale of a certain portion of the land of an agricultural debtor in execution of a decree for repayment of a loan.

The Bihar Money-lenders (Amendment and Application to Pending Suits and Proceedings) Act (No. 5) was passed to remove doubts as to the applicability of the Bihar Money-lenders Act, 1938 (No. 3), to suits and proceedings pending on the date on which that Act came into force.

Stamp Duty.—Act No. 4 exempts from stamp duty documents of divorce made according to Muhammadan law.

Prohibition.—The object of Act No. 6 is generally speaking to enforce what is practically total prohibition of alcoholic liquor in Bihar. The Act does not apply to liquor in the possession of persons travelling from a "wet" area through Bihar, nor to the brewing, possession or use of wine in certain quantities by Roman Catholics and members of the Church of England for the purposes of Mass and Holy Communion. The Act also confers power to grant exemption in case of liquor required for religious purposes or for medicinal, scientific or industrial purposes, and power to issue permits (*a*) to specified persons permitting them to consume liquor, (*b*) to institutions (like clubs and messes) to issue liquor to such of their members as possess permits and (*c*) to persons in charge of restaurants on railways and steamers to sell liquor to *bona fide* travellers.

Agricultural Income-tax.—Hitherto incomes derived from agriculture were not liable to the payment of income-tax. The Bihar Act, No. 7, which is the first of its kind in India, imposes a graduated income-tax on

incomes exceeding Rs. 5,000 derived from agriculture subject to certain exceptions.

Legislature (Members' Salaries and Allowances).—Act No. 8 fixes the salaries of members of the Provincial Legislature at Rs. 75 each per month and provides for the payment of travelling allowances to such members.

Restoration of Bakasht Lands and Reduction of Arrears of Rent.—During an unprecedented economic depression in the period between the years 1929 and 1936, the lands of a large number of agricultural tenants were sold for non-payment of rent and purchased by the landlords. The result was a more acute agrarian distress which could only be relieved by the restoration to such tenants of their lands. Act No. 9 provides for such restoration in certain circumstances and subject to the payment by the tenant of 50 per cent. of the arrears of rent for which the land was sold.

Champaran Agrarian.—Act No. 10 provides for the cancellation of all enhancements of the rents of certain lands which were made in consideration of the release of the tenants from the obligation to grow indigo for the landlords.

Tenancy.—Act No. 11 made extensive and important amendments in the Bihar Tenancy Act, 1885, which has regulated the rights and duties of tenants and landlords of agricultural lands for the last half a century. The more important amendments, which are generally in favour of the tenant, relate to the removal of restrictions on the transfer of his land by a tenant, the abolition of fees payable on such a transfer, the more extensive enjoyment by a tenant of the trees growing on the land and the fruits, the prevention of the ejection of a tenant from his land except in certain special cases, and the abatement of the rent of lands which have suffered by diluvion.

8. CENTRAL PROVINCES AND BERAR.

[*Contributed by* A. N. Shah, Esq., I.C.S.]

During the year 1938, sixteen Acts were passed by the Legislature. Nine were amending Acts; and only the following need to be mentioned.

Agriculture.—Act No. 3 (amending Act) empowers Revenue Officers to penalize the levy of forced labour or forced use of any cattle or agricultural implement by landlords.

Debt Legislation.—Act No. 16 was a temporary measure in force for a period of one year. Its object was to provide, pending further legislation, for granting relief to agricultural debtors, for the stay of execution of money decrees or decrees for foreclosure or sale in mortgage suits on certain conditions and for the release of all agriculturist judgment-debtors imprisoned in execution of a money decree and for the abolition of arrest and imprisonment in execution of such decrees.

Liquor.—Act No. 7 extends to certain notified areas and areas which may be notified from time to time. It penalises (*a*) the unlicensed import, export, transport, sale, purchase, consumption, possession, manufacture and bottling of intoxicating liquor; the tapping of toddy trees, the construction of a brewery or distillery; and the treatment of denatured spirit to render it fit for human consumption; with punishment of imprisonment up to six months or a fine up to Rs. 2,000 or both; (*b*) the keeping of a common drinking-house, with the same punishment; (*c*) drunkenness or drinking in a common drinking-house, with punishment of fine up to Rs. 500.

It permits any person of non-Asiatic domicile or any member of His Majesty's regular Naval, Military or Air Forces to buy, consume or possess any liquor which is lawfully procured for his *bona fide* private consumption and not for sale.

It empowers the Provincial Government to exempt from the provisions of the Act any specified liquor required for medicinal, scientific or industrial purposes; or any person or class of persons.

It provides for the issue of licences for sale, possession, etc., of liquor, if required for *bona fide* medicinal, scientific or industrial purposes; and for the issue of permits or licences for consumption of liquor privately, for use for religious purposes, for use in clubs and hotels for issue to licensed persons only, and in railway restaurant cars.

It provides for the appointment of a Prohibition Commissioner, and officers paid or honorary, and lays down procedure for enforcing the Act.

Act No. 15 (amending Act) empowers Courts to set aside champertous agreements upon such terms and conditions as they may deem fit to impose.

Public.—Act No. 5 empowers the Provincial Government to appoint committees of inquiry into definite matters of public importance with power to summon witnesses and take evidence. The proceedings under the Act are to be judicial proceedings.

Taxation.—Act No. 13 imposes a tax at the rate of Rs. 7 per quarter of the year on every person who carries on, by himself or by an agent, a profession, trade or calling, or is in public or private employment, and who was assessed to income tax in the previous year.

Act No. 14 levies an *ad valorem* tax at the rate of 5 per cent. on retail sales of motor spirit and lubricants to be collected from retail dealers.

9. ASSAM.

[*Contributed by* H. C. Stork, Esq., I.C.S.]

During the year 1938 only the following three Acts were passed by the Assam Legislature:

Payment of Legislators.—In pursuance of s. 72 of the Government of India Act, 1935, the Assam Legislature has by Act No. 1 determined the salaries of its members at Rs. 100 per mensem with a daily allowance of Rs. 5 per diem and travelling allowance and road mileage allowance at the rates admissible to Government servants of the first grade to those members not ordinarily resident at the place at which their attendance is required in connexion with their duties as members.

Probation of Offenders.—With a view to give the prison population in Assam an opportunity of retrieving themselves without the rigid discipline of the prison, Assam by Act No. 2 has provided for conditional release of those prisoners whose antecedents and conduct in the prison indicate that they are likely to abstain from crime and lead a useful and industrious life if and when released.

Qualification of Legislators.—Act No. 3 renders eligible for election to the Legislature, holders of certain special offices under the Crown such as those of Parliamentary Secretaries and Parliamentary Private Secretaries if and when created, mouzadars, Gaonburas, Chowkidars, Government Pleaders and Public Prosecutors, officers in the Army in India Reserve of Officers, or officers, non-commissioned officers or other members of the Indian Territorial Force and the members of the Auxiliary Force in India.

10. NORTH-WEST FRONTIER PROVINCE.

[*Contributed by the Secretary to Government Legislative Department.*]

Punjab Municipal Act.—The system of nomination to the local bodies was abolished. The local bodies were empowered to elect their president.

Punjab District Board.—The system of nomination to the local bodies was abolished. The local bodies were empowered to elect their president, and the taking of oath of allegiance was repealed.

Muslim Waqf Bill.—The object of the Bill was to make provision for the better governance, administration and supervision of certain classes of Muslim public waqfs in the N.W.F. Province.

The Bill was returned to the Legislative Assembly by the Governor for removing certain technicalities.

Contempt of Court.—The Act empowers the court of the Judicial Commissioner, N.W.F. Province, to punish contempts of itself and those of subordinate courts.

Northern India Canal and Drainage.—The provision for forced labour in the Northern India Canal and Drainage Act, 1873, was repealed.

Courts Regulation.—The Bill made some technical amendments in the N.W.F. Province Courts Regulation, 1931. It was returned to the Legislature by the Governor, North-West Frontier Province, recommending some further amendments.

Punjab Municipal Act.—Provision was made to empower the municipal committees to recover rent summarily.

Tobacco Vend Fees.—The Act imposed and levied a fee on the sale of manufactured tobacco.

Public Utility Services.—The object of the Act is to empower the Provincial Government to control public utility services and thus to provide against a situation in which, for one reason or another, the public may be put to grave inconvenience owing to the refusal of a public utility company to continue its functions.

Prohibition.—The Bill introduced and extended the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the N.W.F. Province.

It was returned to the provincial Chamber by the Governor, for making some minor change in the schedule attached to the Bill.

11. ORISSA.

[*Contributed by* C. G. Nair, Esq., *Secretary to Government.*]

Ten Acts were passed during the year 1938. Of these nine were official measures.

Law and Order.—Act No. 1 repeals the Bihar and Orissa Public Safety Act, 1935, in its application to this Province. Act No. 6, the Legal Practitioners (Orissa Amendment) Act, enables the provincial Government to permit qualified Mukhtars to practise in civil and criminal courts in the ex-Madras areas (excepting agency areas) and ex-Central Provinces areas of the Province.

Legislature (Members' Salaries).—By Act No. 2, the Orissa Legislative Assembly Members' Salaries and Allowances Act, the salaries and allowances of the members are fixed.

Agriculture.—Act No. 3 is the Orissa Co-operative Land Mortgage Banks Act. It deals with the establishment of land mortgage banks in the Province with a view to providing for the grant of long-term loans to owners of land or other immoveable property so as to enable them to discharge their debts, to carry out agricultural improvements or to acquire land for the formation of economic holdings and other like purposes. The object of Act No. 5, the Orissa Small Holders Relief Act, is to prevent temporarily the eviction of small holders from their lands and also the attachment and sale of their moveable property as a result of decrees in force before or obtained during the year ending June 30, 1939, pending the enactment of a law on the subject after full consideration.

Land Tenure.—Act No. 4, the Madras Estates Land (Orissa Amendment) Act, provides for the temporary protection of the occupancy right of ryots in whole inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1939, pending the enactment of a law on the subject after full consideration.

Public Health.—Act No. 7, the Orissa Nurses and Midwives Registration Act, aims at bettering the standard of nurses, midwives, dais and health visitors by giving a status to those who, by undergoing suitable training and passing prescribed examinations, fit themselves for registration under the Act. Act No. 10, the Orissa Prevention of Adulteration and Control of Sale of Food Act, makes adequate provisions to ensure that food intended for human consumption is sold in a pure and genuine condition. It also prohibits the sale of foodstuffs by persons suffering from infectious or contagious diseases.

Tenancy.—Act No. 8 is the Orissa Tenancy (Amendment) Act. It recognizes the right of occupancy raiyats in the trees on their holdings. It stops illegal exaction by landlords from tenants and brings down the rate of interest on arrears of rent to 6 per cent. The privilege of free transfer of occupancy rights is conferred on the tenants.

Famine Relief Fund.—Act No. 9, the Orissa Famine Relief Fund (Amendment) Act, provides for the utilization of the excess over the statutory limit of 10 lakhs standing in the Fund for expenditure on protective irrigation work and fixes the minimum and maximum of the annual contribution to the fund from the provincial revenues in the event of the balance in the fund at the end of a year falling short of 10 lakhs.

Regulation.—Only one Regulation, namely, The Elephants' Preservation (Amendment) Regulation, was made by the Governor during the year under s. 92 (2) of the Government of India Act, 1935. It amends the Elephants' Preservation Act, 1879, and the Madras Wild Elephants' Preservation Act, 1883, so as to enable the Governor, exercising his individual judgment, to withdraw the operation of these Acts or any provision thereof from the district of Sambalpur and the agency tracts of the districts of Ganjam and Koraput.

12. SIND.

[*Contributed by* H. B. HINGORANI, ESQ., B.A., LL.B., *Deputy Secretary to the Government.*]

Acts passed—15.

The Sind Legislative Assembly held two sittings—one in February and the other in May 1938. Fifteen Acts were passed during these sittings, dealing with the following subjects :

Taxation.—Act No. 1 provides for the levy of an enhanced duty on the consumption of electrical energy.

Act No. 3 brings the Bombay (District) Tobacco Act, 1933, which was a temporary measure, permanently on the Statute Book, and increases the licence duty leviable under that Act.

Act No. 11 requires the payment of entertainments duty on certain classes of tickets.

Act No. 12 prescribes the stamp duty chargeable on certain documents.

Act No. 15 imposes a tax on certain forms of betting.

Local Self-government.—Act No. 2 extends the term of office of members of the municipal corporation of the City of Karachi from three to five years.

Acts Nos. 7, 13 and 14 abolish the nomination by Government of members to various local authorities in the Province.

Act No. 8 modifies the protection afforded to members, officers and servants of a local board in respect of civil and criminal proceedings.

Act No. 9 empowers local authorities to levy certain fees under the Bombay Weights and Measures Act, 1932.

Provincial Executive.—Act No. 4 deals with the salary and allowances of members of the Council of Ministers.

Provincial Legislature.—Act No. 5 provides for the salary and allowances of members of the Sind Legislative Assembly.

Act No. 6 provides that a holder of certain offices of profit shall not be disqualified from being, or being chosen as, a member of the Assembly.

13. COORG.

[*Contributed by the Secretary to the Government.*]

Taxation.—Under s. 5 of the Coorg District Fund Regulation, 1900 (VI of 1900), as subsequently amended, land cess and tax imposed on non-agricultural income earned in rural areas are recoverable in the manner provided for the recovery of arrears of revenue by the Coorg Land and Revenue Regulation, 1899 (I of 1899). There was no provision in the Regulation prescribing the procedure for the recovery of all costs, damages, compensation, penalties, charges, fees (other than school fees), expenses, rents (not being rents for lands and buildings demised by the Coorg District Board), contributions and other sums which under this Regulation or rules made thereunder are due by any person to the Coorg District Board. Act No. 1 was therefore enacted to give power to the Chief Commissioner to make rules to regulate the demand and recovery by bill and by distraint and sale of the moveable property of the defaulter, of all the dues to the Coorg District Board except land cess and tax on non-agricultural income which may be recovered by sale of immoveable property. The purpose has been served by adding a new clause (*f*) by No. 1 to s. 9 of the Coorg District Fund Regulation, 1900.

Land Revenue.—Until recently when there were no bidders at sales for arrears of land revenue, the lands attached were resumed to Government and the arrears written off as irrecoverable. But it was found that there was no specific provision in the Coorg Land and Revenue Regulation, 1899 (I of 1899), for such a procedure. It was accordingly thought fit to adopt the procedure in Madras under which, whether on account of combination among the ryots or otherwise : (*a*) if no bid is made for land

sold for arrears of revenue it should be purchased on behalf of Government at a nominal price, or (*b*) if it is suspected that full value of the land cannot be realized by the sale, the officer conducting the sale is authorized to bid on behalf of Government when the bids are less than the annual assessment of the land, up to an amount not exceeding the annual assessment of the land, the amount of purchase-money being written off the accounts as an irrecoverable arrear with the sanction of the Collector.

The proposed procedure was in conflict with the provisions of s. 98 of the Coorg Land and Revenue Regulation, 1899, which provides for 15 per cent. of the purchase-money being deposited by the purchaser with the Commissioner at the time of purchase, for the payment of the balance of the purchase-money within thirty days of the purchase and for the forfeiture of the deposit and the re-sale of the property in case of default. Considerable administrative inconvenience would have been caused without any compensating advantage if the procedure prescribed in s. 98 had to be applied to cases where the lands are purchased by Government. A new sub-section (4) was therefore added by No. 2 to s. 98 of the regulation providing that the provisions of the preceding sub-sections shall not apply where the property is purchased by Government.

The Act has been given retrospective effect so that the validity of the sales which might have taken place before the Act was framed might not be questioned. At the same time it has been made clear in the Act that the validity of a final decree or order passed by a Civil Court before the Act was framed shall not be affected.

Local Taxation.—S. 29 of the Coorg Village Panchayat Act, 1926 (Coorg Act No. 1 of 1927), authorizes a panchayat to make assessment of taxes and fees referred to in s. 26 of the Act, and Rule 30 of the rules framed under the Act empowers a panchayat to consider any objection or suggestion made by a person interested in the assessment of taxes and fees. There was, however, no provision within the Act or the rules for the remission of taxes and fees which are irrecoverable. A new section was therefore added, by No. 3, to the Act as s. 31a to make provision for such contingency based on s. 111a of the Madras Local Boards Act.

14. BURMA.

[*Contributed by* H. McG. Elliot, Esq.]

The year 1938 was a somewhat busier one than the previous years and a large number of Bills were introduced, though several of them failed to find a place on the Statute Book. One Act was enacted by the Governor under the provisions of s. 43 of the Government of Burma Act and eight Acts were passed by the two Chambers of the Legislature and assented to by the Governor.

Municipalities.—Municipalities in Burma are frequently having sums of money embezzled by tax collectors and others, and under the law as it stood before the enactment of this measure they could recover their moneys only through the civil courts, which was a rather lengthy process and involved the payment of stamp duties. In order to make matters easier for the municipalities Act No. 11 empowers them to recover these moneys through the revenue courts.

Handwriting Identification.—Owing to the spread of education in the country the number of offences in which handwriting plays a part or in which it provides a means of identification has increased considerably

and difficulties began to be experienced owing to the fact that there were no means for compelling accused persons to furnish specimens of their handwriting or of their signatures. These difficulties have now been removed by Act No. 21, which empowers the authorities concerned to obtain these specimens.

Legislature.—S. 28 of the Government of Burma Act lays down that members of either Chamber of the Legislature shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Legislature. Act No. 3 prescribes the salaries and allowances of members. The salary which has been fixed comes to roughly £220 a year.

Finance.—The object of Act No. 4 is to legalize certain additional taxation with a view to balancing the budget and to protecting certain industries.

Rangoon.—No. 5, which was enacted by the Governor under s. 43 of the Government of Burma Act, makes provision for the maintenance, in cases of emergency, of the public peace and security in the City of Rangoon. It was necessitated by the serious Indo-Burman riots which occurred in the autumn of 1938.

Government Securities.—Act No. 6 amends the Government Security Act so as to enable the newly founded Reserve Bank to carry out the duties of Controller of Currency.

Burma.—Act No. 7 regularizes certain practices relating to the extraction of forest produce for agricultural and domestic purposes and also makes it clear that teak and other reserved trees are not liable to be cut.

Life Assurance Companies.—Under the Companies Act, life assurance companies are required to deposit a percentage of their working capital with the Government or with such other authority as the Government may appoint. These deposits are kept with the Reserve Bank, and Act No. 8 authorizes the bank to charge commission for the collection of interest when the deposits are in the form of securities.

Burma Tariff.—Act No. 9 makes certain alterations in the import duties of certain goods, and it abolishes the duty on ball clay in order to foster the local pottery industry.

VIII. EASTERN COLONIES.

1. CEYLON.

[It is hoped to publish the summary in the next Review.]

2. HONG KONG.

[*Contributed by* J. A. Fraser, Esq., M.C.]

Ordinances passed—29.

Gasholders.—Certain defects, aggravated by climatic conditions, having been found in gasholders, the Gasholders Examination Ordinance (No. 1) as a safety measure requires a monthly routine examination of gasholders and detailed examination of their exteriors and interiors at longer periods.

Shipping.—The Asiatic Emigration Amendment Ordinance (No. 2) facilitates the proper segregation of the sick on emigrant ships by increasing the deck-space for passengers.

Medicine, Pharmacy and Public Health.—Vaccination at the discretion of the health authorities in order to deal with epidemics in thickly populated areas is made compulsory by the Vaccination Amendment Ordinance (No. 4). The persistence of the heroin evil in spite of countermeasures has made it necessary, in the Dangerous Drugs Amendment Ordinance (No. 17), to enact special provisions for the prohibition of heroin divans, storage places and factories, and for the responsibility of landlords and other matters. The Ordinance makes it an offence to possess a pipe for heroin-smoking, which is the method of consuming this drug most popular among the Chinese. These pipes are of special manufacture and distinctive design, resembling opium-pipes but easily distinguishable from them. Other provisions relate to the enforcement of magistrates' orders, heavy penalties for second and subsequent offences, and the protection of informers. The New Territories Regulation Amendment Ordinance (No. 18) enables the Governor in Council to lay down simple general rules for the prevention and abatement of nuisances in certain rural districts where it is impracticable to apply the public health laws generally. The Pharmacy and Poisons Amendment Ordinance (No. 20) makes it an offence for a person to have possession of a poison included in Part I of the Poisons List unless he is entitled to sell or deal in that poison or has lawfully obtained it from an authorized seller.

Women and Girls.—The Protection of Women and Girls Ordinance (No. 5) repeals an Ordinance of 1897 similarly entitled, with its amending ordinances and regulations, and re-enacts them, with amendments incorporating the recommendations of the *Mui Tsai* Commission and other improvements suggested by experience of the working of such legislation in this Colony. The new provisions deal largely with the registration and inspection of adopted daughters and the vesting of the legal guardianship of such girls in the Secretary for Chinese Affairs, and give power to that officer to protect women and girls from exploitation for immoral purposes. The recommendations of the Commission were further implemented by the Female Domestic Service Amendment Ordinance (No. 15) and the Offences Against the Person Amendment Ordinance (No. 16).

Landlord and Tenant.—The influx of refugees into the Colony as a result of disturbances in China so overtaxed housing accommodation that it was found necessary by the Prevention of Eviction Ordinance (No. 6) to restrict the landlord's right to possession of dwelling-houses in certain cases in order to prevent hardship to tenants in occupation, without, however, laying down a standard rent. The legislation is based on Part II of the Rent and Mortgage Restrictions Act, 1923 (13 & 14 Geo. V, c. 32).

Registration of Persons.—In addition to the minor changes effected by the Registration of Persons Amendment Ordinance (No. 11), the second amending Ordinance (No. 26) provides for the registration, with particulars of technical qualifications and experience, of British subjects who may from time to time be called upon to serve in the essential services or the defence forces of this Colony.

Sedition and Undesirable Publications.—Two new Ordinances, the Sedition Ordinance (No. 13) and the Prohibited Publications Ordinance

(No. 14), based upon models supplied by the Secretary of State, repeal and replace former legislation on these subjects.

Water.—In this Colony water is supplied to the public from Government waterworks. New provision is made for this service by the Waterworks Ordinance (No. 20), which establishes a separate Water Department, revises the charges for water and the regulations relating to its use, and repeals the former Ordinance of 1903.

3. STRAITS SETTLEMENTS.

Ordinances passed—44.

[*Contributed by* A. DE MELLO, ESQ., *Docteur en Droit.*]

Births and Deaths, Registration of.—When Ordinance No. 34 of 1937 [1] was being brought into force, it was considered advisable that in local registration areas (*e.g.* the Singapore Municipal area) where a very complete system of registration already existed, and the duty of registration had hitherto been delegated to the local authority, some of the functions of Registrar should continue to be exercised by that authority. The amending Ordinance (No. 10) accordingly provides for the appointment of " Supervising Deputy Registrars " who, though invested with all the essential attributes of Registrars, will not be called upon to perform the actual registration, to have the custody of the Registers, to correct errors therein, or to issue extracts therefrom. Minor amendments relate to (i) the refusal, following the practice in England, of certified extracts relating to still-births (s. 23) ; (ii) the correction of clerical errors in the Register (s. 22), and the mode of authentication thereof (by initials, instead of by signature). A new form of Register has been adopted to conform with the provisions of the new law.

Courts.—No. 16 amends the principal Ordinance [2] by providing for the appointment of a Judge of Appeal, and for his precedence over other Judges. It also modifies the statutory qualifications and mode of appointment to the offices of District Judge, and of Registrar of the Supreme Court (Settlement of Singapore), in consequence of the transfer of these posts to the Colonial Legal Service.

Criminal Law.—Of the three amending Ordinances that were passed, Ordinance No. 12 introduces into the Penal Code [3] a new provision (s. 377a) based on the Criminal Law Amendment Act, 1855,[4] punishing acts of gross indecency between male persons which do not amount to " unnatural offence," as defined by s. 377. It also abolishes the maximum sentence of seven years' imprisonment prescribed by ss. 397–8 of the Penal Code for the crimes of robbery, including " gang-robbery," with violence. It had been felt that the fixation of minimum penalties resulted oftentimes in the exceptional circumstances of a particular case being overlooked, and they have, in consequence, upon the recommendation of the Secretary of State for the Colonies, been repealed. The reference to " gang-robbery " being thus rendered superfluous, the two sections, 397 and 398, have now been combined into one, numbered 397, relating to the one offence of " robbery when armed or with attempt to cause death or grievous hurt." The punishment henceforth prescribed

[1] See *Rev. of Leg.*, 1937, p. 136.
[2] Cap. 10 in the Revised Edition (1936) of the " Laws of the Straits Settlements."
[3] Cap. 20 in the Revised Edition (1936) of the " Laws of the Straits Settlements."
[4] The Imperial Statute, 48 and 49 Vict. c. 69, s. 11.

for it is whipping with a cat-o'-nine-tails in addition to the punishment imposed by any other section of the Code.

Consequential alterations are effected in the Criminal Procedure Code[1] by Ordinance No. 13 of 1938.

The last Ordinance (No. 26) has recast the amendment which had been introduced into the "Court of Criminal Appeal Ordinance" in 1937,[2] empowering that court to order a new trial in certain cases where an "irregularity" had occurred in the original trial. The Court of Criminal Appeal had since held[3] that the term "irregularity" did not cover a *misdirection*, and the purpose of the amending Ordinance No. 9 of 1937 had therefore not been achieved. Ordinance No. 26 of 1938 now, by substituting the wider word "ground" for the word "irregularity," enables the court to order a new trial as well in cases of improper admission or rejection of evidence as in cases of misdirection (s. 6 (2)).

Currency.—Ordinance No. 23 inaugurates a new era in the administration of this outpost of British Malaya by setting up for the first time one Currency Commission for its entire area (comprising the Colony of the Straits Settlements, the Federated Malay States of Perak, Selangor, Negri Sembilan and Pahang, as well as the Unfederated Malay States of Johore, Kedah, Kelantan, Trengganu, Perlis and Brunei) in place of that hitherto established for the Colony alone. The Colony and each of the Malay States have entered into an Agreement making themselves jointly and severally liable for the solvency of the currency fund. Innovations upon the previous law are that—

(1) Currency-notes of any denomination issued by the new Commission are, in future, to be of unlimited legal tender throughout British Malaya (s. 4);

(2) The Commission will issue and redeem *notes* on demand in exchange for sterling, but the issue and redemption of *coin* will be optional (s. 5);

(3) Demonetization of both notes and coin is provided for (s. 6).

The Agreement of joint and several liability provides for (*a*) a larger Board of Currency Commissioners (clause 2), consisting in future of five members, instead of the three prescribed by the previous law; (*b*) payment to the Colony of the surplus of the Currency Guarantee Fund (clause 4); (*c*) establishment of a "Currency Fund," holding the assets of the Commission, a "Currency-Fund Income-Account" dealing with the revenue and expenditure of the Commission, and an "All-Malaya (Currency Surplus) Fund," which is to receive any surplus which is left in the "Currency-Fund Income-Account" and is to be divided among the participating Governments according to an agreed scale (clause 7), any deficiencies in the Fund being similarly met by them (clause 8).

Dentists.—Tooth-extraction by extremely primitive methods had hitherto provided a lucrative livelihood for Indian, Chinese and other oriental practitioners, plying their calling oftentimes by the roadside. Needless to say, it was a source of infection and disease. As more hygienic means of treatment are now within the reach of all, the older methods have now been definitely prohibited by the new Ordinance No. 6.

Designs, Protection of United Kingdom.—A proprietor of a design duly registered in the United Kingdom now enjoys, by virtue of Ordinance

[1] Cap. 21 in the Revised Edition (1936) of the "Laws of the Straits Settlements."
[2] By Ordinance No. 9 of 1937.
[3] In *R.* v. *Tan Chu Chooi*, (1938) S.S.L.R. 245.

No. 7, the like rights and privileges in the Colony as in the United Kingdom. Local re-registration is, therefore, now dispensed with: it had imposed an undue burden upon British manufacturers.

Pineapple Industry.—No. 43 amends the principal Ordinance [1] by implementing an arrangement come to by members of the recently formed "Central Board of Pineapple Packers for Malaya" to introduce a scheme for the marketing of pineapples.

Seditious and other Undesirable Publications.—No. 18 repeals the Seditious Publications Ordinance [2] passed in 1915, and also s. 124a, Penal Code, and makes "seditious intention," which it defines, in future the criterion of guilt. The penalties are considerably severer than under the repealed law. Prosecutions are to be instituted within six months of the commission of the alleged offence, and must be authorized in writing by the Attorney-General (s. 5), and there can be no conviction upon the uncorroborated testimony of one witness (s. 6). Innocent receivers of seditious matter may absolve themselves by delivering it to the Police (s. 7). Powers of search and arrest are conferred upon the Police (s. 8).

No. 19 is complementary to the first, and deals with "undesirable" publications in general. Ss. 3 and 4 (following s. 4 of the repealed Seditious Publications Ordinance of 1915) enable the Governor in Council, by Order published in the *Government Gazette*, to prohibit the importation of any publication which is "contrary to public interest." As in the case of seditious publications, s. 5 enables a receiver of a prohibited publication to deliver it to the Police, and thus exonerate himself; and ss. 6 to 9 (inclusive) relate to powers of search, arrest and forfeiture.

Trade-marks.—This was the most noteworthy, and, in fact, an epoch-making, piece of legislation in the history of the Colony. Though the "Merchandise Marks Ordinance" (in imitation of a similar statute [3] of the Imperial Legislature) of 1883 [4] made punishable the fraudulent use of trade-marks and trade-descriptions, and the use of trade-marks bearing representations of the Royal Arms or Crest, or the flags of Great Britain or of any of the Dominions, there had, up to the present, been no register of trade-marks: and the only way by which a mark could be "protected by law" within the meaning of that Ordinance was by the acquisition of it by user; in other words, under the Common Law.[5] Proprietors of trade-marks had therefore in the past resorted to the expedient of advertising them in the *Government Gazette* and the local newspapers, as a warning and evidence of such user. The Court of Appeal, as far back as 1891, had said [6]:

> "It is clear to us that it was intended, at the time that the Ordinance (of 1888) was passed, that there should be established in the Colony a registration of trade-marks in connexion with which the penal provisions of that Ordinance might be worked. . . . In the absence of such registration, the gravest hardship and injustice will be inflicted on those likely to come under the operation of the Ordinance."

[1] Cap. 166 in the Revised Edition of the Laws.
[2] Cap. 27 in the Revised Edition of the Laws.
[3] 50 & 51 Vict. c. 28.
[4] Since repealed and replaced by Ordinance No. 9 of 1917, which has become Cap. 157 in the Revised Edition of the Laws.
[5] See *Ingenohl* v. *"El Oriente" Fabrica de Tabacos*, (1928) S.S.L.R. 218; and R. Braddell's Law of the Straits Settlements (2nd Edition, 1932), vol. ii, pp. 146 *seq.*
[6] In *R.* v. *Khoo Beng Chiang*, Straits L.R. (N.S.), 45.

Nevertheless, the subject encountered the apathy of both the mercantile community and the powers that be for fifty years, until the Trade-marks Acts passed in the years 1937–8, in England and in other parts of the Empire, aroused public interest concerning it here, and eventuated in the present Ordinance.

Inspired principally by the English Acts of 1905, 1919 and 1937,[1] Ordinance No. 38 draws a distinction between local and United Kingdom trade-marks, embraces 79 sections, and is divided into 7 parts, Part I being " Preliminary," while Part II deals with the Registration of United Kingdom Trade-marks, Part III with the Registration of Local Trade-marks ; Part IV with the Registrar's Issue of Certificates, Part V with the Effect of Registration, Part VI with Legal Proceedings, and Part VII contains General and Miscellaneous Provisions.[2] Part II was the first to be brought into operation, viz. on February 1, 1939, and so United Kingdom trade-marks could be registered in the Colony as from that date without opposition. The registration of local trade-marks was, however, deferred till January 1, 1940, the interests of local proprietors of trade-marks having been safeguarded in cases where there has been no *bona-fide* user of a United Kingdom trade-mark identical or nearly identical with one which has been in use locally.

The Register itself is, as in the United Kingdom, divided into two parts —A and B ; the former being intended for new trade-marks (s. 18), while existing trade-marks, *bona fide* used in the Colony for at least two years (s. 20), or already registered in Part B of the United Kingdom Register, may, if not qualified for registration under Part A, be registered in Part B. In this category fall most of the existing trade-marks in use in the Colony, and advertised, as stated above, by notices in the local press and in the *Government Gazette*, as proprietary.

Registration in Part A (s. 51) affords a little greater protection than that under Part B : but, whether under the one part or the other, registration once effected avails for seven years, and may be renewed for successive periods of fourteen years if application is duly made under the Ordinance.

The use of the Colonial Arms as a trade-mark, except with the permission of H.E. the Governor, continues to be prohibited (s. 77) as under s. 16 of the Merchandise Marks Ordinance, above referred to.

Trade-marks relative to metallurgical products and textiles were excluded from registration by the Ordinance as originally passed (s. 53), unless (*a*) they had been already registered in the United Kingdom, and (*b*) the application for local registration were made by the person who had been registered as proprietor in the United Kingdom or his successor in title.[3]

Wills.—No. 21 introduces into the Colony provisions, firstly, of the English Law of Property Act, 1925,[4] s. 177, by exempting wills made in contemplation of marriage from revocation upon the celebration of the marriage (s. 13) ; and, secondly, of the English Wills Act, 1852,[5] and Wills (Soldiers and Sailors) Act, 1918.[6]

[1] Now superseded by the Statute of 1938 (1 & 2 Geo. VI, c. 22).

[2] It seems a pity that the Government Printer of the Colony does not, like his colleague of the Federated Malay States, provide the public with any Table of Contents or Index to facilitate reference to the multifarious provisions of Ordinances of such and similar length.

[3] Ordinance No. 21 of 1939 has removed this restriction as to metallurgical goods, leaving it therefore in force only for Textiles.

[4] 15 Geo. V, c. 20. [5] 15 & 16 Vict. c. 24. [6] 7 & 8 Geo. V, c. 58.

4. FEDERATED MALAY STATES.

[*Contributed by* A. DE MELLO, ESQ., *Docteur en Droit*.]

Enactments passed—33.

Children.—No. 2 [1] prohibits children under the age of sixteen years from being employed in connexion with any public entertainment. The Controller of Labour is made an additional Registering Officer under the principal Enactment for the protection of Indian children, in particular.

Courts.—No. 1 [2] provides that the Court of Appeal in criminal matters shall consist of an odd number of Judges, and that usually only one judgment be pronounced. The practice is thus brought into harmony with that existing in England and the Colony of the Straits Settlements. It also repeals the provisions of the principal Enactment which gave to a public officer special facilities for qualification and enrolment as an Advocate and Solicitor.

No. 25 amends the Enactment [3] which empowers the Public Prosecutor to require that particular criminal appeals from Magistrates shall be heard by the Court of Appeal direct, instead of first going before a single Judge. It also provides for the re-hearing by the Court of Appeal of criminal appeals originally heard by the Court of a Judge, but this further appeal is only to be available in cases where it is desirable in the public interest.

Food and Drugs, Sale of.—No. 9 aims at securing uniformity of legislation of this type between the Colony and the rest of British Malaya. It gives power to make Rules for the control, by licence or registration, of premises used for or persons engaged in the manufacture, preparation for sale, and the sale of any food or drug, and for fixing the fees for such licences and registration. Power is also given to control, by licence or otherwise, the importation or sale of skimmed or filled milk.

The provisions of the principal Enactment have also been extended to cosmetics and toilet preparations—a wise measure in view of many of them containing, particularly, lead ingredients injurious to health.

Muhammadan Offences.—This subject is dealt with, not in an Enactment, but in an Order in Council, No. 1 of 1938, which in repealing the Enactments of 1914 on the subject [4] (passed separately in the individual States of Perak, Selangor, and Negri Sembilan) and of 1933 (in the State of Pahang) amends and consolidates the law applicable to persons professing the Muhammadan religion. It penalizes—

(1) The non-attendance by male Muhammadans over fifteen years of age, residing within three miles of a Mosque, of divine service at the Mosque on Fridays (s. 3).

(2) Neglect by parents to send their male children aged between seven and fourteen years, regularly to a Mosque-School for instruction in the Koran (ss. 4 to 6).

(3) The enticing away of an unmarried girl (s. 7).

(4) Absconding by an unmarried girl from her lawful guardians (s. 8).

(5) Adultery (s. 9 (i)).

[1] It amends the principal Enactment, which is Cap. 158 in the Revised Edition of the Laws of the F.M.S., 1935.

[2] Which amends Cap. 2 of the Revised Edition of the Laws.

[3] Cap. 188 of the Revised Edition of the Laws.

[4] Cap. 198 in the Revised Edition.

(6) A male person found (*a*) in retirement alone with and in suspicious proximity [1] to any Muhammadan woman whom he knows that the Muhammadan Law does not forbid him to marry by reason of consanguinity, fosterage or affinity, or (*b*) in retirement with any non-Muhammadan woman [1] (s. 9 (ii)).

(7) Any woman who is found in retirement alone with, and in suspicious proximity to, any non-Muhammadan male (s. 9 (iii)).

(8) Incest (s. 10).

(9) Cohabitation after divorce (s. 11).

(10) Teaching or publishing unorthodox religious doctrines (ss. 12 and 14).

(11) Sale of cooked food in the fasting month of Ramadan between sunrise and sunset, and breach of fasting precepts (ss. 13 and 15).

Prevention of Corruption.—No. 23, which is uniform with the Straits Settlements Ordinance No. 41 of 1937,[2] aims at suppressing liberty and secret commissions, in the interests of commercial and public morality.

Wills.—No. 5 (which, however, does not apply to Muhammadans) introduces for the first time in the States comprehensive legislation for the construction of Wills. It has been based, with the requisite modifications, upon the corresponding legislation of the Colony.[3]

Women and Girls.—No. 15 amends and brings the principal Enactment into line with the law in the Colony.[4] It makes it an offence to bring into the Federated Malay States for any purpose any woman or girl by fraud; and extends the penal provisions of the Enactment to a female who lives on the earnings of a prostitute other than herself. Power is also given to detain a child under twelve years of age who has been abandoned by its parents.

5. ADEN.

[*Contributed by* G. V. CAMERON, ESQ., *Legal Adviser.*]

The following were the more important Ordinances enacted in the Colony of Aden during 1938.

Customs.—No. 8 is a drastic summarization of the Indian Sea Customs Act, as formerly in force in the Colony.

Succession.—No. 9 closely follows the Indian Succession Act, 1925. "Excepted persons" are now only "Jews of Aden" as defined for the first time in s. 2. Part IX, s. 341 onwards, is an interpolation placing on a legal basis, probably for the first time, a "succession certificate," of limited and unusual legal effect, which had been in general use in Aden for many years before its severance from India.

Registration of Documents.—No. 12 closely follows the Indian original as regards registration of documents.

Lunacy.—No. 13 follows the Indian Lunacy Act.

Insolvency.—No. 15 follows the Gibraltar and Tanganyika Ordinances,

[1] On this subject of "*Khilwat*" or "*bina*" peculiar to Muhammadan Law, see Syed Amir Ali's *Mahommedan Law*, vol. ii, s. ix; and *Mintaj-et-Talibin*, Book 43 (Howard's Edition, 1914), p. 364.

[2] See p. 135, *Rev. of Leg.*, 1937.

[3] Cap. 224 in the Revised Edition (of 1936) of the Laws of the Straits Settlements, as amended by Ordinance No. 21 of 1938 (see above).

[4] Cap. 33 of the Revised Edition of the Laws of the Straits Settlements, as amended by Ordinances No. 13 of 1937 and No. 46 of 1939.

with such modifications as previous Indian practice had made current in the Colony under the Provincial Insolvency Acts.

Maintenance.—No. 18 enforces Maintenance Orders, where other countries or territories grant reciprocity.

Salt.—No. 19 is a drastic abbreviation of the Indian and Bombay Salt Acts formerly in force.

Divorce.—No. 26, for Christians only, is modelled on the Indian Act with borrowings from more recent English law and practice.

Sale of Goods.—No. 37 closely follows the recent Indian Act.

Contracts.—No. 38 is based on the Indian Act of 1872, but modified in certain particulars where it appeared that the common law, particularly of consideration, had not been clearly envisaged in the original. See especially Part II and definitions of " fraud " and " misrepresentation " and s. 27, in which the prevailing view of consideration is applied to Indian law of registered contracts in writing.

6. MAURITIUS.

[*Contributed by* C. A. Hooper, Esq., *Procureur-General.*]

Fifty-two Ordinances were passed by the Council of Government and assented to by the Governor between May 3 and December 31, 1938. The majority of these Ordinances deals with matters of domestic concern, amongst which the following are of considerable importance.

Friendly Societies.—Ordinance No. 8 amends Ordinance No. 22 of 1874 and gives to the Governor additional powers of supervision over the affairs of Friendly Societies.

Conditional Release of Offenders.—Ordinance No. 12 amends the Conditional Release of Offenders Ordinance, 1934 (No. 22) by excluding from the operation of the latter cases of violence against police officers, so as to ensure a greater measure of respect for members of the local police.

Lighting Control.—Ordinance No. 13 gives the Governor in Council power to decree the total or partial cessation of lighting in the Colony on occasions of emergency or public danger.

Unnecessary Noise.—Ordinance No. 17 provides for the protection of the public against the inconveniences of unnecessary noise.

Collection of Funds Control.—Ordinance No. 21 provides for measures of control over indiscriminate collection of funds where the persons collecting are remunerated for their services.

Firearms.—Ordinance No. 24 amends the Gun Ordinance, 1922, and provides for the stricter control over firearms in the Colony, and more specially over their use in times of strikes or industrial unrest.

Legal Profession.—Ordinance No. 36 provides for measures of protection for the members of the legal profession from disloyal and unfair competition of touts and other unauthorized persons.

Dangerous Drugs.—Ordinance No. 43 gives the Medical and Health Department a complete control over the stocks of dangerous drugs existing in the Colony.

Agricultural Bank.—Ordinance No. 14 provides for the raising of an additional loan of Rs. 1,600,000 for the purposes of further financing the Mauritius Agricultural Bank.

Sewerage.—Ordinance No. 42 amends the Port Louis Sewerage Ordinance, 1905, and substitutes a definite rate of annual contribution to

be paid by owners of premises in the town of Port Louis for the rate which heretofore varied in each particular case.

Industrial Disputes.—Ordinance No. 7 introduces for the first time in this Colony legislation intended to promote and further the formation of employers and employees' associations with a view to settling industrial disputes and other matters affecting the relations between employers and employees and the relation of employers and employees *inter se*.

Labour.—Ordinance No. 47 brings the law on Labour up to date and provides for a Labour Code in line with modern requirements, whilst doing away with former legislation on the matter which had become antiquated.

7. SEYCHELLES.

[It is hoped to publish the summary in the next Review.]

8. STATE OF NORTH BORNEO.

[*Contributed by* J. S. ABERNETHY, ESQ., *Legal Adviser*.]

Ordinances enacted—6.

Food Control.—Ordinance No. 1, enacted by the Court of Directors of the British North Borneo (Chartered) Company under powers reserved to them by rule under the Legislative Council Ordinance, 1912, provides the Governor with power to make regulations for conserving food supplies in the State.

Adoption of English Law.—Ordinance No. 2 adopts the common law of England and the doctrines of equity in force in England at the date of commencement of the Ordinance, except where other provision has been or may be made in any enactment of the State, in place of the general principles of law and equity in force in India.

S. 4 follows the recent English Law Reform (Married women and Tort-feasors) Act. S. 5 following s. 6 of the same Act provides for contribution between joint tort-feasors. S. 6 is designed to eliminate the difficulties that arise from the doctrine *actio personalis moritur cum persona*. It follows recent legislation in England enacted upon the recommendation of a Committee set up by the Lord Chancellor.

S. 9 reproduces the rule against accumulation found in the Thellusson Act.

Nothing in the Ordinance affects the Muhammadan law relating to succession or to the relations between husband and wife.

Opium.—Ordinance No. 3 amends the Opium and Chandu Ordinance, 1927, by providing that no more additions may be made to the list of registered opium-smokers unless the person wishing his name added can produce a certificate by a Government Medical Officer to the effect that it is necessary for him to have opium. It constitutes a further step towards the cessation of the licensed smoking of opium within the State.

Air Navigation.—Ordinance No. 4 provides for the application in North Borneo of the law relating to air navigation in the Federated Malay States.

Petition Writers.—Ordinance No. 5 repeals the Petition Writers Ordinance, 1915.

Red Cross.—Ordinance No. 6 re-enacts and amplifies the Red Cross (Control of Use) Ordinance, 1918, in order to give effect to the obligations arising out of Art. 28 of the International Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, 1929.

9. SARAWAK.

[*Contributed by* T. STIRLING BOYD, ESQ., *Chief Justice.*]

Twenty Orders were enacted during 1938, of which eleven were amending Orders. The following new Orders were enacted:

Census.—Provision is made by Order C. 15 to take a census of the country.

Food Control.—Order F. 4 was enacted at the time of the international crisis in September and gives the Residents, or where no Resident exercises jurisdiction, the District Officer, certain powers to control the supplies and prices of food.

Geneva Cross and Red Cross.—Order G. 1 was enacted at the request of the Secretary of State for the Colonies and makes it illegal to use for any purpose the design either of a white or silver cross on a red field, or of a red cross on a white ground, or any colourable imitation. The use of the words " Red Cross " or " Geneva Cross " is also forbidden.

Lotteries.—Lotteries, raffles and sweepstakes are forbidden by Order L. 9, except with permission from the Officer-in-Charge of the District.

Maintenance Orders.—Order M. 11 facilitates the enforcement in Sarawak of maintenance orders made in British possessions and Brunei for the permanent payment of sums of money to a wife or other dependants.

Pensions.—Effect is given by Order P. 12 to the new terms of pension which were offered to the Senior Service in July 1937.

Sedition.—The offence of sedition is defined and the provisions of s. 124A of the Penal Code are extended by Order S. 4. Power is also taken to prohibit the import of seditious publications.

The most important amendments to the statute law are shortly described below:

Arms and Explosives.—The power to grant permission to import arms and explosives is now vested by Order A. 2D in the Chief Secretary and removed from the Residents who previously, together with the Chief Secretary, were entrusted with this duty.

Administration of Deceased Persons' Estates.—The Order was amended to provide, by Order A. 5D, that in Kuching the estates of deceased Malays and Dayaks should be dealt with by the District Officer instead of by the Registrar as formerly.

Copyright.—The scope of the Copyright Order C. 13 was extended by a notification issued by the Chief Secretary under powers conferred by the Order. This notification provides that the Order should apply to: (*a*) works first published in British self-governing Dominions as if they had been first published within Sarawak; (*b*) to literary, dramatic, musical and artistic works the authors of which were British subjects or British protected persons belonging to the Dominions as if they had been Sarawak subjects; and (*c*) in respect of residence in the Dominions as if such residence had been residence in Sarawak.

IX. WEST AFRICA.

1. GAMBIA.

[*Contributed by* A. G. B. Manson, Esq., *Legal Adviser.*]

Ordinances passed—24.

The only Ordinances which call for special comment are :

Advertisements.—Ordinance No. 9 is an endeavour to legislate against the disfigurement of the countryside by unsightly advertisements. The Ordinance enables the Governor in Council to make Regulations for the control, prohibition and removal of any kind of advertisement which is visible from any road, street or public thoroughfare or from any place to which the public have access. The Regulations which have been drawn up are of a simple character and, while securing the object in view, place as few restrictions as possible upon legitimate commercial advertising. It is hoped that by taking the necessary precautions in time, the Gambia may be spared the kind of unsightly advertisement which spoils the amenities of so many rural areas in many countries.

Civil Marriage.—Ordinance No. 20 provides for civil marriage and is a measure which was long overdue.

Revised Edition of the Laws.—The last Revised Edition of the Laws was passed in 1926, and a further revision has become necessary. Ordinance No. 12 makes provision for its compilation.

2. GOLD COAST.

[*Contributed by* L. E. V. McCarthy, Esq., *Solicitor-General.*]

During the year 1938, 38 Ordinances were passed, of which 32 were amending Ordinances.

The following may be briefly described :

Lighting Control.—No. 7 makes provision for the total or partial cessation of lighting in the Gold Coast by Regulation on occasions of emergency or public danger or by way of experiment or practice for such occasions.

Naval Volunteer Defence.—No. 17 empowers the Governor in Council, either in conjunction with any other Colony or not, to maintain and use vessels of war. Such vessels may be offered for general service in the Royal Navy. Officers and men of the Naval Volunteer Force entered on the express terms of accepting general service in the Royal Navy in emergency are declared to form part of the Royal Naval Volunteer Reserve.

Cocoa (Control of Exportation).—Owing to a cocoa " hold-up " arising from a trade dispute between farmers and merchants, stocks of cocoa held by farmers eventually nearly reached the dimensions of the whole season's production. As it was feared that when trade was restored the sudden release of these stocks would have a depressing effect on the world market price, Ordinance No. 21 was enacted for the purpose of establishing control of the exportation of cocoa. The Governor in Council was enabled to specify quota periods, and by Proclamation to fix the quantity of cocoa which might be exported during a quota period. It was made unlawful for any person to export cocoa except under licence issued by the Comptroller of Customs, subject to the direction of the Governor. The operation of the Ordinance is now suspended.

Oaths.—This useful little Ordinance (No. 36) obviates the unnecessary repetition of certain promissory oaths. No person who has already taken the oath of allegiance is required to repeat the oath on any other occasion. Again, a person appointed to act in an office need not repeat any oath which he has already taken.

3. NIGERIA.

[*Contributed by* C. W. W. GREENIDGE, ESQ., *Solicitor-General.*]

Administrator-General.—No. 14 of 1938 applies to any estate in respect of which a grant of probate or letters of administration may be issued by the Supreme Court and gives the Administrator-General power to wind up such estates.

Public Trustee.—No. 15 of 1938 provides for the appointment of a public trustee and empowers the latter to accept and give effect to the purposes of any trust.

Lighting Control.—No. 17 provides for the making of regulations by the Governor in Council for the total or partial cessation of lighting in Nigeria on the occasion of any emergency.

Lagos.—No. 19 provides for the raising of a loan of £42,500 for the purpose of improvements in existing and the construction of new roads, drains and markets in the township of Lagos.

Wild Animals.—No. 28 provides for regulations to be made by the Governor in Council prohibiting the carrying of any specified kinds of arms, lamps or other articles by persons hunting.

Local Forces.—No. 32 provides for the establishment of a local defence force and the training of Europeans as officers and of Africans as officers and soldiers. The Ordinance repeals the European Reserve Force Ordinance.

Naval Defence Force.—No. 36 provides for the establishment and training of a Naval Defence Force and the maintaining and using, either in conjunction with any other Colony or not, of vessels of war.

Trade Unions.—No. 44 provides for the formation and registration of Trade Unions.

Money-lenders.—No. 45 repeals the existing Money-lenders Ordinance and provides more comprehensively for the regulation of the business of money-lending.

4. SIERRA LEONE.

[*Contributed by the* HON. GEOFFREY JOBLING, *Attorney-General.*]

Forced Labour.—No. 11 gives power to a Provincial Commissioner to require any Chief to commute all or any of the personal services to which he is entitled for a fixed cash payment or a share of the crops harvested by the people or of the produce collected by them. When once such personal services have been commuted it is unlawful for the Chief or his successors to exact them in the future.

Hours of Labour.—No. 13 provides the hours of night during which it shall be unlawful to employ women and young persons in industrial undertakings; power is given to the Governor to declare the hours of night to be ten consecutive hours instead of eleven as provided by the Ordinance, for a not longer period than 60 days in certain circumstances.

Education.—No. 16 brings into existence a Board of Education consisting of the Director of Education and three members of the staff of

the Education Department, not less than four persons nominated by the schools already in existence in Sierra Leone and such persons as may be appointed by the Governor. Among its other duties the Board is empowered to advise the Governor in matters of rule-making concerning, *inter alia*, the buildings in which schools may be conducted, the making of Government grants to schools, missionary and educational societies and to schools maintained by tribal authorities in the Protectorate, the inspection of such schools, the registration and conditions of service of teachers and the provision of scholarships from public funds. The Ordinance empowers the Governor to prohibit the opening of any new school which does not conform with the requirements of the Board and to close down an existing school where the Board represents that it is improperly conducted.

Docks.—No. 19 gives effect to the provisions of an International Labour Convention and gives power to the Governor in Council to make rules to ensure, so far as possible, the safety of persons employed in docks, wharves and quays.

Legal Practitioners.—No. 24 sets up a Committee which may inquire into any allegation of professional misconduct on the part of any legal practitioner. The Committee consists of the Attorney-General and the Solicitor-General, both *ex-officio*, and three unofficial members of the legal profession nominated by the Sierra Leone Bar Association. In the event of the Committee being satisfied that an allegation of misconduct has been made out as a result of an inquiry, at which the accused legal practitioner shall have the right of presenting his case, the Committee shall present a report to the Supreme Court. The Supreme Court, after hearing the practitioner concerned and after such further inquiry as it may deem necessary, may take such disciplinary action against the offending practitioner as the circumstances seem to warrant.

Supreme Court.—No. 28 sets out, as its principal provision, the qualification required for an appointment to a judgeship upon the Supreme Court Bench. It provides that a person selected for such appointment shall have been qualified to practise as an advocate in courts of unlimited civil and criminal jurisdiction in Great Britain and Northern Ireland or in any other part of His Majesty's Dominions for a period of not less than five years.

Fifty-seven subordinate legislative measures were also passed during the year.

X. EAST AFRICA.

1. KENYA.

[*Contributed by* T. A. Dennison, Esq., *Acting Solicitor-General.*]

Forty-six Ordinances were passed during the year 1938. A summary of the more important Enactments is given below:

Servants.—No. 2 provides for the control of the employment of servants. The Ordinance consolidates and amends the law relating to the subject and gives effect to the ratification by His Majesty's Government of an International Convention concerning the Regulation of Certain Special System of Recruiting of Workers.

Marriage.—No. 3 amends the Marriage Ordinance so as to permit a minor, consent to whose marriage has been refused by the person

empowered to give such consent, to apply to the Supreme Court for consent.

Public Trustee.—No. 6 constitutes Commissioners for the purpose of advising the Public Trustee as to the investment of trust funds, and the disposal of such investments, administered by him.

Black-outs.—No. 7 enables the Governor in Council to make regulations providing for the total or partial cessation of lighting in the Colony on occasions of emergency or public danger, or by way of experiment or practice for such occasions.

Stamp Duty.—No. 8 reduces the stamp duty on warrants for goods from fifty cents to twenty cents.

King's African Rifles.—No. 9 deletes the provision which empowered Commanding Officers to award corporal punishment to African soldiers, as it was considered advisable that that power be confined to courts martial.

Immigration.—No. 11 makes provision for controlling the importation into the Colony of unskilled manual labourers from territories outside Kenya, Uganda and Tanganyika.

Sugar.—No. 14 gives effect in Kenya to the International Sugar Agreement which was signed at London on May 6, 1937.

Bills of Exchange.—No. 16 affords to bankers in the Colony the same protection in regard to drafts as is afforded to them in England by s. 19 of the Stamp Act, 1853.

Public Holiday.—No. 18 gives legislative effect in Kenya to the proposal that a public holiday should be held annually in Kenya, Tanganyika and Uganda on the second Monday in October, to be described as " King's Day," in substitution for the public holiday observed on the day of the official celebration of His Majesty's Birthday.

Refugees.—No. 22 regularizes the residence in the Colony of certain refugees from Ethiopia.

Penal Code.—No. 26 brings the law relating to sedition and importation of undesirable publications into general accord with that of the other British dependencies.

Native Lands.—No. 28, together with the Crown Lands (Amendment) Ordinance, 1938 (No. 27), is designed to give effect to the recommendations of the Kenya Land Commission which was appointed to inquire into and report upon the claims and needs in respect of land of the native population in Kenya and certain other matters.

Liquor.—No. 32 extends the provisions of the Liquor Ordinance, 1934, to Abyssinians in the same manner as they are applicable to natives, Somalis, Malagasies and Comoro Islanders.

McMillan Memorial Library.—No. 33 is designed to enlarge, extend and revise the objects and scope of the charitable trust known as the McMillan Memorial Library and the powers and responsibilities of the trustees thereof ; to make certain further amendments and additions to the constitution and trusts of the said charitable trust and to divers documents subsidiary thereto ; and to consolidate and declare the constitution and trusts as so modified.

Pyrethrum.—No. 34 re-enacts with minor amendments all the provisions of the Sale of Pyrethrum Ordinance, 1935, and provides for a further measure of control of the pyrethrum industry.

Museums.—No. 40 establishes a Board of Trustees for the purpose of administering museums in the Colony which may be vested in the Board,

and provides for the management and control of the museum carried on in the Coryndon Memorial.

Financial Officers.—No. 41 provides for changes in the titles of the principal financial officers. In consequence of the abolition of the office of Treasurer and the division of the statutory administrative duties of that office between the newly created posts of Financial Secretary, Accountant-General and Commissioner of Inland Revenue numerous amendments in many existing enactments have become necessary. The Ordinance enables these amendments to be made.

Civil Service Provident Fund.—No. 43 provides for the admission of Asian members of the British East African Meteorological Service, who elect to become contributors, to the Asian Provident Fund Scheme of Kenya, and when such members elect to become contributors make them subject to the scheme, as if they were members of the Kenya Asian Local Civil Service.

Railways.—No. 45 extends the powers of the High Commissioner for Transport in regard to various matters which are not provided for in the principal Ordinance, the Kenya and Uganda Railway Ordinance, 1927. More especially the Ordinance enables the High Commissioner, when necessary, to make provision for road motor services and for air services.

2. NYASALAND.

[*Contributed by* H. G. Morgan, Esq., *Attorney-General.*]

The year 1938 was not responsible for much new legislation in the Protectorate, but a number of existing Ordinances received minor amendments.

Of the new legislation the following may be noted:

Employment of Women.—No. 9 restricts the employment of women by night in industrial undertakings in harmony with the Night Work (Women) Convention, 1934, thus introducing a new policy in the Protectorate.

Native Produce.—No. 14 empowers the Governor to control the sale and purchase of any particular native produce within a particular district. The control is exercised by a licensing system. The main object of the Ordinance is to assist as well as control the marketing of native produce.

Factories.—No. 20 establishes a Factories Board to supervise factories and machineries and enables the Governor to make rules on a number of matters connected with factories and machinery with the intention of introducing better conditions in work connected therewith and of supervising the same.

Of amending legislation reference may be made to:

Criminal Procedure Code.—No. 18, which confines the trial of cases of murder and manslaughter to the High Court. Previously district commissioners tried these cases in their magisterial capacity.

Trade Licensing.—No. 15 entrusts the control of trade licensing to a Board instead of to a licensing officer.

King's African Rifles.—No. 1 brings the rate of pay while on active service of officers on the King's African Rifles Reserve of Officers without previous experience in the Indian or regular army into line with the rate of pay of officers having such experience.

The Asylums Ordinance, the Prisons Ordinance and the Police Ordinance were all amended to enable gratuities to be paid in certain circumstances

to the widows and children of the respective officers and other ranks subject to such Ordinances and also in the case of the two former Ordinances to enable previous service either in the Protectorate or in the East African Colonies and Dependencies to be taken into consideration for computing the amount of gratuity payable.

A good deal of subsidiary legislation was enacted, mostly of a local character. The following may prove to have a general interest :

Tobacco Marketing Ordinance, 1937.—Government Notices Nos. 26, 38 and 39 of 1938 introduces rules to be observed by buyers of tobacco on auction floors, owners of auction floors and sellers of tobacco on auction floors respectively.

Criminal Procedure Code.—Government Notice No. 63 of 1938 appoints all native African police not below the rank of corporal to be public prosecutors for the purpose of prosecuting before subordinate courts in respect of offences against certain specified laws.

The Dogs Ordinance.—Government Notice No. 106 of 1938 introduces a progressive scale of fees for dog licences so that the owner of four dogs paid four times as much for the fourth dog as he did for the first.

3. SOMALILAND PROTECTORATE.

[*Contributed by* RUPERT HAIG, ESQ., *Legal Secretary*.]

The following are the more important of the enactments made during the year 1938 :

Administration of Criminal Justice.—Ordinance No. 7 provides that in the absence of any two of the persons entitled to hold the Protectorate Court, the Governor may empower a District Officer to try natives for offences under Chapter VI of the Indian Penal Code and offences punishable with death, and attempts at, and abetments of, these offences.

Customs.—Ordinance No. 15 makes provision for the deposit of uncustomed goods in King's warehouses and private licensed warehouses.

Employment of Women, Young Persons and Children.—Ordinance No. 6 regulates, on the lines of the International Conventions, the employment of women, young persons and children in industrial undertakings and at sea. The Ordinance makes it obligatory for employers and masters of vessels to maintain registers showing the particulars of young persons employed in industrial undertakings and at sea respectively. Contravention of the provisions of this Ordinance is an offence punishable with a fine.

Immigration Restriction.—Ordinance No. 13 removes the distinction between European and other immigrants and also prescribes the limits within which a prohibited immigrant who is a passenger in, or a member of the crew of, a vessel in any port of the Protectorate may land at such port.

Infanticide.—Ordinance No. 17 is designed generally to effect the same changes in the law of the Protectorate as were effected in the law of England by the Infanticide Act, 1938. The Infanticide Ordinance, 1934, is repealed, and under the provisions of the new Ordinance a woman is guilty of the offence of infanticide, and may for such offence be punished as if she were guilty of the offence of culpable homicide not amounting to murder, in a case where she causes the death of her child being under twelve months but, at the time of the commission of the offence, the balance of her mind was disturbed by reason of her not having fully recovered

from the effect of giving birth to the child or the effect of lactation consequent upon such birth.

Minimum Wages.—Ordinance No. 14 empowers the Governor to fix a minimum wage to be paid to employees in any particular occupation or trade, to appoint Advisory Boards for this purpose, and to make rules for the better carrying out of the provisions of the Ordinance. Failure to pay the minimum wage renders an employer liable to punishment by fine and also to pay to the employee the difference between the minimum wage and the wages actually paid.

Ports.—Ordinance No. 3 introduces, among other minor amendments, an increase of 50 per cent. in the fares and rates chargeable by passenger boats propelled by steam or oil power.

Ordinance No. 11 effects changes in the port dues to be charged on vessels at the Berbera Port.

Registration of United Kingdom Trade Marks.—Ordinance No. 9 makes provision for the registration in the Protectorate of trade marks registered in the United Kingdom, and for the renewal of such registrations. Such registration confers upon the registered proprietor the same privileges and rights in the use of the trade mark in the Somaliland Protectorate as he would enjoy in the United Kingdom. The Ordinance also permits the registration in the Protectorate of any person entered in the United Kingdom Register of Trade Marks as a registered user in respect of any goods of a trade mark which has already been registered.

4. TANGANYIKA TERRITORY.

[*Contributed by* G. W. McL. Henderson, Esq., *Acting Solicitor-General.*]

Ordinances passed—26.

During the year 1938 twenty-six Ordinances were enacted. Of these seventeen were amending Ordinances and one replaced existing legislation.

The following are the more important enactments:

Inland Water Transport.—No. 1 prohibits the conveyance upon inland water by ship of any person or goods for hire or reward or any business goods without a licence. Licences are granted by a licensing authority constituted by the Governor and are normally available for one year, but a short-term licence covering a period of three months may be granted for particular reasons such as seasonal business. Special provisions have been made with regard to dhows plying exclusively within the inland waters of the Territory. An appeal from the licensing authority may be made to the Governor, who may make such arrangements for the disposal of the appeal as he may think fit.

Employment of Women.—No. 14 gives effect to the provisions of the International Convention concerning the employment of women during the night. It follows closely similar legislation which has been enacted in nearly all the Colonial Dependencies.

Sugar.—No. 19 gives effect in the Territory to the International Sugar Agreement which was signed in London on May 6, 1937. Provisions are made for fixing the amount of sugar that may be exported and prohibits exportation except under licence. The Governor may by order fix the amount of stocks which may be held in the Territory and prescribe means to ensure that stocks do not exceed the fixed amount. In order to see that the provisions of the Ordinance are being carried out, the Director of Agriculture is given a power of entry and inspection in respect of any

land or premises. Finally the provisions of the Ordinance are by s. 9 to be in amplification, and not in derogation, of the provisions of the Customs Ordinance and regulations.

Sisal.—No. 22 consolidates the existing laws relating to sisal-hemp and the sisal board and to provide for the registration of sisal plantations and plantation marks, the grading and packing of sisal-fibre and other matters relating to the sisal industry. Parts I and V are formal. Parts II and IV re-enact the provisions of the Sisal-Hemp (Export Tax) Ordinance, 1933, and the Sisal Board Ordinance, 1937, both of which are repealed. The present practice of accounting for the export tax imposed in Part IV has been incorporated in s. 13.

Tea.—No. 21 provides for the establishment of a Tea Board for the improvement of the industry and imposes a cess on tea manufactured in the Territory. The Ordinance provides for close co-operation between the board and the local Tea Growers' Association, and it is the function of the Board to advise the Governor on matters relating to the industry. The expenditure of any moneys appropriated to the industry is also a function of the Board and subject to the approval of the Governor. The rate of the cess is determined by the Governor in Council and is payable by every tea manufacturer licensed under the Excise Duties Ordinance, 1936. The purpose of the cess is not as a revenue measure but one for the benefit of the industry, s. 9 providing that the annual appropriation is to be not less than the estimated amount of the cess for the year to which the appropriation relates.

Lighting Control.—No. 9 provides for the total or partial cessation of lighting in the Territory on occasions of public danger, emergency or by way of practice; a measure enacted in common with other colonial Dependencies.

Coffee Tax.—No. 20 changes the prior method of taxation to one whereby the tax is leviable only on coffee which is exported and is collected at the ports of export. By s. 4 provision is made for the annual appropriation in the same manner as that laid down for the sisal and tea industries.

Bills of Exchange.—No. 24 amends the Bills of Exchange Ordinance, 1931, so as to afford to bankers in the Territory the same protection in regard to drafts as is afforded to them in England by s. 19 of the Stamp Act, 1853. The wording of that section has been followed except that the words "other than a bill or cheque" have been inserted with a view to making it clear that s. 60 (1) of the local Ordinance applies to bills and cheques while the subsection inserted covers other drafts.

Post Office.—No. 23 amends the main Ordinance by prohibiting the transmission by post without lawful excuse of any postal article which either encloses therein or has thereon any words, marks or designs of a seditious or the like character. The law is thereby made similar to that in England following the English Post Office (Amendment) Act, 1937.

5. UGANDA PROTECTORATE.

[*Contributed by* H. R. Hone, Esq., M.C., K.C., LL.B., *Attorney-General.*]

Ordinances passed—31.

Sugar.—Ordinance No. 1 made legislative provisions to enable the Government to carry out its obligations under the International Sugar Agreement of 1937 by placing restrictions upon the export of sugar upon a "quota" basis and by regulating stocks of sugar held.

Mental Treatment.—No. 5 restated the law in relation to the treatment and control of persons suffering from mental derangement and provided for the legal procedure to be adopted in mental cases and the regulation of mental hospitals according to modern ideas on these subjects. Boards of Visitors for mental institutions were set up and statutory provision for the regular inspection by visitors of the institutions and the patients therein was made. The law regarding the removal of mental patients not domiciled in the Protectorate was overhauled, and more satisfactory provisions were enacted for the removal of such persons to neighbouring dependencies and overseas where suitable treatment can be ensured.

Buganda Native Laws.—Under the Uganda Agreement, 1900, it was agreed that the Kabaka of Buganda should be empowered to make laws for his subjects, but considerable doubt has existed as to whether it was intended that such legislation should bind only people of the Buganda tribe or should apply to all other natives of Africa living in Buganda. Since in recent times many immigrant natives have settled in Buganda, it was decided that the law should be clarified by enacting a declaratory Ordinance (No. 6) specifically empowering the Kabaka to legislate for all natives of Africa who, by the existing courts legislation, are justiciable by the Kabaka's native courts.

Forests.—As part of the general policy of the conservation of timber and the forwarding of reafforestation in the Protectorate, it has been thought desirable to impose executive duties in these matters upon the native administrations. To this end, the amending Ordinance (No. 7) authorised the declaration of Native Forest Reserves, the control and management of which are vested by the Governor in specified Native Administrations. In their administration of these areas, the Native Administrations will be advised by the Provincial Commissioners and the Conservator of Forests, and it is thought that by the assumption of these responsibilities, the desirability of a prudent forest policy will be inculcated into native society.

Native Administrations.—Though native administrations have played an important part in the political organization of the Protectorate for many years, these bodies have never had any corporate identity at law. In early days, this state of affairs gave rise to little inconvenience, but with the increase in the responsibilities of these organizations, it has become necessary to regularize their position in law by constituting them (Ordinance No. 8) as corporate bodies with perpetual succession, conferring on them the right to hold property and recognizing their capacity to sue and be sued.

Townships.—With the march of time, it was found that the Townships Ordinance of 1903 had outlived its usefulness and that it was necessary, therefore, to provide a more comprehensive law for the governance of townships. It was deemed also very desirable to confine the ambit of the Townships Ordinance solely to municipal matters, leaving the Township Authorities to deal with all public health affairs under the powers conferred on them by the Public Health Ordinance enacted in 1935. Accordingly this Ordinance (No. 9) provides for the declaration of townships, the constitution and powers of Township Authorities, rating, fire protection, the regulation of petroleum filling stations, the repair and regulation of streets, the power of Township Authorities, subject to the Governor's approval, to make by-laws according to the needs of individual

townships and the power of the Governor to make general rules for all townships.

Medical Registration.—Ordinance No. 14 makes further and more stringent provisions with regard to the practice of dentistry.

Native Administration Tax.—According to native law and custom, most Africans were bound to undertake each year one month's work in the interests of the native community to which they belonged. Some years ago it was conceded that those who wished might commute their labour obligation by a money payment. Ordinance No. 18 has carried the matter a considerable step forward (judged, at least, by European standards of propriety). It is now provided that every native shall pay an annual tax to the Native Administration to which he owes allegiance and that no native who is able to pay the tax shall be required to carry out his customary obligation to do a month's work for the benefit of his community. Those natives, however, who are not able to pay the tax in cash are, nevertheless, required to discharge their obligation by labour if they are able-bodied and under the apparent age of 45 years.

Employment of Children.—Further restrictions on the employment of children in industrial undertakings are imposed by Ordinance No. 18, which raises the age limit to sixteen years and repeals the former provision of local law by which children between the ages of 12 and 14 years might be employed in industrial undertakings under licence.

Trading.—The regulation of trading is revised and consolidated by law No. 19 which, in particular, places certain restrictions on the issue of trading licences to minors, purdah women, undischarged bankrupts and persons who do not keep satisfactory books of account. The Ordinance also provides for the cancellation or suspension of the licences of traders who are convicted of offences under the Ordinance or of giving short change or short measure or weight.

Interpretation.—Apart from a number of additional provisions in common form to facilitate the interpretation of local laws, Ordinance No. 21 contains several novel features copied from a similar Ordinance of Gibraltar. The powers to change the titles of public officers and provisions for the consequent interpretation of the old titles in existing laws are incorporated in the principal Ordinance instead of being contained in a separate Ordinance. Power is conferred on the Governor to authorize reprints of amended Ordinances containing all amendments up to date, and such an authorised reprint is declared to be an authentic copy of the amended law for all purposes. Where any section of an Ordinance is identical or substantially identical with a section of an Imperial or Indian Act, it is provided that the marginal note may contain an abbreviated reference to the section of the parent Act, though such reference shall not be deemed to have any legislative effect whatever. Finally it is declared that where, by any law, a right of appeal to the Governor or Governor in Council is conferred, it shall be the duty of a public officer against whose decision the appeal lies to supply the aggrieved party with the grounds of his decision. The appeal may then be instituted within thirty days by written memorandum, and the aggrieved party shall have no right of audience in person or by advocate, unless the Governor or Governor in Council sees fit to direct otherwise.

Coffee Industry.—Ordinance No. 24 sets up a Coffee Board for the regulation and assistance of the coffee industry, and also authorises the imposition of a cess on exports of coffee overseas.

Makerere College.—No. 30 provides for the control, administration and working of the new Makerere College in Uganda, which is to provide university education for the African inhabitants of the East African territories. An Assembly is established for the College which will meet annually to consider the annual report and the accounts of the College and generally to watch over the development, policy, progress and ultimate destiny of the College. In addition, the Ordinance sets up a College Council, which is directly responsible for the administration of the Council under its Principal and for its financial stability and academic success. The appointment and conditions of service of the College staff are also provided for, and finally the Ordinance deals with the endowment fund and operation and control of the College finances.

6. ZANZIBAR.

[*Contributed by* C. Furness Smith, Esq., *Attorney-General.*]

During the year twenty Decrees were passed. The following is a list of the more important of these measures and contains a summary of the objects and reasons therefor:

Immigration Regulation and Restriction.—No. 1 amends the Immigration Regulation and Restriction Decree (c. 43) and is intended to enable persons who are convicted of an offence under s. 5 (1) (*i.e.* of entering the Protectorate without appearing before the Immigration Officer and presenting their passports or permits) to be treated as prohibited immigrants. The power thus taken is intended for use in the case of mainlanders so gaining entry into the Protectorate whom it is considered desirable to repatriate for economic or other reasons.

The restriction on the powers conferred by this amendment which the proviso supplies is in conformity with the principal Decree which relates to the treatment of persons in similar circumstances who are actually prohibited immigrants.

Land Protection (Debts Settlement).—No. 2 has been enacted to provide for the purchase by the Government of the interests of mortgagees and other creditors in lands owned by Arabs and Africans, and has been designed to provide a remedy for the economic consequences resulting from the condition of indebtedness into which many of the landholders in the Protectorate have fallen. The extent of that condition had been the subject of official inquiry over a long period and, although the facts elicited through *ad hoc* investigation for such a purpose were necessarily incomplete and the conclusions based upon them necessarily conjectural, Government was satisfied that the indebtedness was of such a widespread character as to require its intervention in the cause of the Protectorate's agricultural prosperity and social well-being. The scope of the Decree is restricted in its remedial effect to that aspect of the indebtedness problem which concerns the indigenous landholder and which threatens his continued possession of the land and tends to hamper him in the disposal of his produce and the husbandry of the soil in an economic manner.

The principal features of the scheme to which the Decree gives effect are the following:

(*a*) Adjudication of the debt with a view to ascertaining the actual amount lent (or value of goods delivered on credit) and allowing a fair rate of interest thereon.

(*b*) Valuation, by an officer appointed by the Government for the purpose, of both mortgaged lands and lands sought to be attached by unsecured creditors.

(*c*) The Government to pay off the creditor to the extent of the value of the land threatened, and to assume the position of mortgagee in respect of the amount paid.

(*d*) Where the value of the land as estimated by the officer appointed to value it is insufficient to satisfy the debt, the creditor will be free to challenge the valuation either by instituting a suit for foreclosure or sale or by applying for an order for sale or attachment.

(*e*) On any such proceeding being taken, the Court will in the first instance proceed to value the property in such manner as it considers proper unrestricted by the rules contained in the Decree (Schedule IV) which govern the official valuation.

(*f*) The Court's valuation must not be less than the official valuation, and, if greater, the Government must give effect to it, unless the debtor himself prefers that the proceedings against his land which have commenced shall take their ordinary course.

(*g*) Repayment by the debtor of the amount advanced by the Government on his behalf, and interest thereon to be effected by suitable instalments having due regard to the necessity for leaving means at his disposal to provide for the proper husbandry of the land and for the livelihood of himself and his family.

Prisons.—Under the provisions of the Prisons Decree only prisoners sentenced to imprisonment for more than six months could earn a remission of sentence. No. 7 gives effect to the recommendation of the Standing Advisory Committee on Penal Administration that, following the system adopted in England, any prisoner sentenced to imprisonment, whether by one sentence or by consecutive sentences, for a period exceeding one month should be eligible to earn remission by good conduct and industry. The amendment also adopts the English practice by altering the maximum amount of remission which could formerly be earned from one-seventh of the period of sentence in excess of six months to one-sixth of the total sentence.

Cloves.—No. 9 replaces the Clove (Purchase and Exportation) Decree, 1937, under which the right to deal locally in cloves and to ship cloves for exportation was restricted to a single licensee. In conformity with an understanding reached between the Government and representatives of the Indian Community, the Decree extends freedom of purchase and exportation to the public generally under licence, subject to conditions which are designed to protect the interest of producers and to enable the Government through the Clove Growers' Association to maintain control over the prices obtainable for cloves in foreign markets.

There are certain amendments also effected under the schedule to the Decree which are minor or consequential only, except as regards certain amendments of the Transfer of Agricultural Produce Decree (c. 121), which will enable advances by the Clove Growers' Association on the security of clove produce to be covered by such security over a period of two years (instead of one year only under the existing law), and will permit a series of such advances to be made on the security of a single instrument. It was considered that the extension of the period of security thus permitted was necessary to provide for the contingency of crop failure or shortage. The covering of a series of advances by a

single instrument of security will avoid much unnecessary clerical labour, and will enable the amount of advances to be adjusted with reference to immediate requirements and to crop prospects.

Newspapers.—No. 11 was enacted: (*a*) to secure by means of registration that information shall be made available both to the Government and to the public as to the identity of the proprietors, printers and publishers of newspapers and as to the places where printing presses are established. Similar provision exists in most other countries and is designed to provide an essential measure of protection to those seeking redress in respect of defamatory statements contained in newspapers; and (*b*) to provide the Government with a necessary means of knowledge as to the nature and quality of opinions on matters of public interest which are broadcast in the Protectorate through the medium of newspapers and news-sheets.

Naval Volunteer Force.—No. 12 is designed to provide for the establishment of a naval volunteer force in Zanzibar on the lines of the Kenya Royal Naval Volunteer Reserve. The Decree follows a model furnished by the Secretary of State to the Conference of East African Governors.

Medical and Dental Practitioners' Registration.—The amendment of the Medical and Dental Practitioners (Registration) Decree (c. 66) effected by No. 14 is designed to prevent the continuance of professional practice, of a kind which in other countries is undertaken only by qualified dentists, by persons who are not registered as dentists in the Protectorate. In particular it is considered that the fitting of artificial teeth is an operation which requires a degree of skill and technical knowledge not ordinarily possessed by unqualified persons and which, if unskilfully performed, may have serious consequences for the patient. The omission in the principal Decree of a definition of the expression "practising as a dentist" has resulted in a judicial decision excluding operations of that description from the meaning to be assigned to it. The definition inserted by this Decree reproduces that contained in s. 14 of the Dentists Act of 1921 (Imperial).

The amendment effected by this Decree is not to come into force until an order to that effect has been issued by His Highness the Sultan in Executive Council. It is not intended that such an order shall be issued until the services of one or more private dental practitioners possessing the necessary qualifications become available.

Stamp Duty.—The amendment of the Stamp Duty Decree (c. 95) effected by No. 17 is designed to exempt from stamp duty authorizations on a bank or Government Savings Bank permitting one or more persons to conduct ordinary banking business on account of another or others, or a resolution whereby an incorporated company or other body corporate authorizes its director or directors, servant or servants similarly to conduct such business, which are at present dutiable as powers of attorney. Exemption in the same terms is conferred by the corresponding laws of Kenya and Tanganyika, and it is considered desirable to secure uniformity in this respect with mainland legislation.

7. ANGLO-EGYPTIAN SUDAN.

[*Contributed by the* ADVOCATE-GENERAL, *Sudan Government.*]

There is little of general interest in the legislation of 1938, most of which, with the exception of the Road Traffic Consolidation Ordinance, 1938, is taken up with amendments to existing legislation.

The amendments deal with Customs (No. 1), Quarantine (No. 2), Taxation of Land and Date Trees (No. 4), Criminal Procedure (No. 5) and Civil Justice (No. 6).

XI. SOUTH ATLANTIC.

1. BRITISH GUIANA.

[*Contributed by* S. E. Gomes, Esq., *Acting Attorney-General.*]

There were twenty-three public Ordinances passed during the year 1938. The principal of these were :

Teachers' Pensions.—Ordinance No. 1 amends the Teachers' Pensions Ordinance, c. 197, so as (*a*) to give to certified teachers who qualify for pension under the latter Ordinance an option of commuting one-quarter of the pension for a gratuity of ten times the amount by which the pension is reduced ; (*b*) to enable a teacher to qualify for pension calculated at the rate appropriate to the highest grade in which he has served provided he has served in that grade for a period of not less than three years. Teachers who were serving prior to June 1, 1938, may, however, contract out of the above provisions.

Constabulary.—Ordinance No. 2 amends the Constabulary Ordinance, c. 30. The effect of the amendments is to place future recruits to the police force on the same footing as civil servants as regards the earning of pensions and the payment of gratuities, and to extend to all officers and constables irrespective of the date on which they joined the force the principle of payment of pension or gratuity on disablement from further service in the force by reason of an injury received in the actual execution of their duties. Formerly this provision as to payment of pension or gratuity on disablement was confined to officers and constables who had joined the force before January 27, 1929.

Regulation of Dangerous Trades.—Ordinance No. 3 will enable effect to be given in British Guiana to the provisions of the International Convention for the protection against accidents of workers employed in loading and unloading ships which was adopted by the International Labour Conference at its sixteenth session in April 1932. The Ordinance also makes general provision for the regulation of other dangerous and unhealthy industries.

Customs Duties.—Ordinance No. 6 amends the Customs Duties Ordinance, 1935 (No. 23), in various particulars, the more important of which are (*a*) the admission of certain oils suitable for use in Diesel engines at a lower rate of duty than existed ; (*b*) an increase in the general tariff rate of duty on woollen piece goods.

Patents and Designs.—Ordinance No. 10 amends the Patents and Designs Ordinance, 1937 (No. 10). S. 4 amends s. 53 of the 1937 Ordinance to enable the Governor, in his discretion, to extend the provisions of that section to vessels, aircraft and land vehicles belonging to any part of His Majesty's Dominions outside the United Kingdom. This amendment, in conjunction with certain new definitions substituted by s. 2 of the Ordinance, will enable s. 53 to be applied, if occasion should arise, to vessels, etc., of the Isle of Man and the Channel Islands. S. 53 of the 1937 Ordinance makes it no infringement of the rights of a patentee to use a patented invention in vessels, aircraft and land vehicles on certain conditions.

Official Designations.—Ordinance No. 4 provides for a change of title in certain official designations and permits of future changes by administrative action.

Pensions.—Ordinance No. 12 enables the Governor to extend the time for the exercise by an officer of the option to take a gratuity and reduced pension under the Pensions Ordinance, 1933 (No. 20).

Civil List.—Ordinance No. 19 amends the Civil List Ordinance, c. 52, so as to effect changes in the emoluments pertaining to the office of Governor and Surgeon-General.

2. BRITISH HONDURAS.

[*Contributed by* S. A. McKinstry, Esq., *Attorney-General.*]

Of the thirty-three Ordinances which were enacted in 1938, seventeen effected amendments to existing legislation and four were connected with the budget. The remaining twelve Ordinances are :

Undesirable British Subjects.—Ordinance No. 3 regulates the deportation of Undesirable British Subjects and for similar purposes.

Provident Fund.—Ordinance No. 6 establishes a Provident Fund for certain teachers.

Police.—Ordinance No. 7 provides for the establishment and organization of a Police Force.

Savings Bank.—Ordinance No. 16 consolidates and amends the law relating to the Savings Bank.

Public Health.—Ordinance No. 23 amends the Public Health Law and transfers from certain local authorities to the Senior Medical Officer powers and duties with respect to health and sanitation throughout the Colony.

Town Boards.—Ordinance No. 24 provides for the establishment of District Town Boards in the Colony.

Recruiting of Workers.—Ordinance No. 25 relates to the recruiting of workers.

New and Revised Edition of the Laws of the Colony.—Ordinance No. 28 makes provision for the consolidation, preparation and publication of a new and revised edition of the Laws of the Colony.

Trades Licensing.—Ordinance No. 29 provides for the licensing of certain trades and businesses in the town of Mullins River.

Bicycles.—Ordinance No. 31 regulates the licensing of bicycles and tricycles.

Road Traffic.—Ordinance No. 32 repeals certain enactments relating to motor vehicles and road traffic and substitutes other provisions in lieu thereof.

Clubs.—Ordinance No. 33 makes provision for the registration of clubs and the sale of intoxicating liquors therein.

3. FALKLAND ISLANDS.

Ordinances passed—18.

Dairy Produce.—Ordinance No. 2 relates to the inspection of dairies and the manufacture and sale of dairy produce.

Civil Procedure.—The subject of procedure in the Civil Courts is dealt with in Ordinance No. 4. In particular it lays down the power of the court in cases involving execution of decrees.

Control of Lighting.—Powers, which in England have resulted in the "black-out," are contained in Ordinance No. 5.

Registration of Births.—The law on the subject of the registration of births was amended by No. 7 so as to include the registration of "still-births."

Provident Fund.—Ordinance No. 6 of 1937 establishing a Provident Fund for certain non-pensionable employees of the Government (see *Review*, page 161) is repealed by No. 8 which enacts a new set of provisions on the subject.

Midwives.—No. 9 imposes a fine, not exceeding £10, upon persons not registered, "either a male or a female," who attend a woman in childbirth.

Petroleum.—Ordinance No. 10 provides for the safe storage of petroleum spirit.

Censorship.—The object of Ordinance No. 11 seems to be directed to the provision of a censorship rather than the usual protection of morals. It provides for the prohibition by order of the Governor in Council of the importation into the colony of any publication, and is directed in particular to those which are contrary to the public interest.

Sedition.—The defence of the colony and the protection of its inhabitants are also covered by Ordinance No. 12, which makes provision for penalties for seditious offences.

Seamen.—The International Convention relating to an unemployment indemnity for seamen in the case of loss or foundering of their ship is adopted in the colony by Ordinance No. 15.

Trade Marks.—The register of trade marks in the United Kingdom is extended to the colony by Ordinance No. 16 which repeals No. 12 of 1928 while extending its provisions.

4. ST. HELENA.

[*Contributed by* G. C. KITCHING, ESQ., *Government Secretary*.]

Ten Ordinances were enacted during the year 1938, of which the following are of interest:

Pasturage Lands.—No. 1 repeals an Ordinance of 1839 and provides for the regulation and improvement of pasturage lands.

Plants Protection.—No. 8 provides for the control of plant diseases.

XII. WEST INDIES.

1. BAHAMAS.

[*Contributed by* GODFREY W. HIGGS.]

Acts passed—24.

Lunatics.—The Lunacy Act, 1937 (c. 7), repeals and re-enacts the law relating to the treatment, care and custody of persons of unsound mind. It provides that the magistrate may hold an inquiry into the state of mind of any person suspected of being of unsound mind upon the information on oath of any informant. Such inquiry must be held in the presence of the suspected person. If committed to the hospital by the magistrate the medical officer must examine such person immediately, who must not

be detained in hospital more than thirty days unless an adjudication order is issued based upon the report of two medical practitioners. This Act further provides for the care of a lunatic and the conditions under which such lunatic may be discharged.

Motor Cars.—The Motor Car Amendment Act, 1937 (c. 8), amends the principal Act by providing a new method of registering motor cars.

Magistrates.—The Magistrates Amendment Act, 1937 (c. 11), clears up a doubt which previously existed as to when a magistrate might admit an accused person to bail. It gives a magistrate power to admit to bail in any cases other than treason or felony punishable with death, and in the event of his refusal permits the accused person, his counsel or attorney to apply for bail to the Supreme Court.

Newspapers.—The Newspaper Surety Act, 1938 (c. 12), prohibits any person or company from printing or publishing any newspaper in the Colony without having previously given and executed a bond in the sum of £100 conditioned against the printing or publication of any blasphemous, seditious or other libel and any damages and costs on any judgment for the plaintiff in any action for libel against such printer, publisher or proprietor.

2. BARBADOS.

[It is hoped to publish the summary in the next Review.]

3. JAMAICA.

Acts passed—40.

Hire-purchase Agreements.—No. 1 deals with hire-purchase agreements on the lines of English legislation.

Package Tax.—Law No. 3 imposes a tax on every package brought into the island of certain articles specified in a schedule.

Mental Hospital.—The substitution of "mental hospital" for "lunatic asylum" is enacted by Law No. 7 and the procedure laid down for the admission of patients.

Emergency Powers.—Law No. 9 gives the Governor in Council power to take action upon any threat of interference with the supply and distribution of food, water, fuel or light or with the means of locomotion, to deprive the community or a substantial portion of it of the essentials of life.

Entertainment Duty.—Law No. 21 imposes an entertainment duty similar to that in England.

Poor Prisoners' Defence.—The object of Law No. 24 is to provide for the defence of poor persons charged with a capital offence.

Wireless.—Law No. 28 gives the necessary legal sanction to the transfer of the West India and Panama Telegraph Co. to Cable and Wireless (West Indies) Ltd.

Minimum Wage.—Law No. 31 gives the Governor in Council power to appoint Advisory Boards to consider the wages paid for any occupation and the necessary authority to enforcement of its payment in any industry in which a minimum wage has been fixed by its authority.

Trade Unions.—An amendment of the Trade Union Law, 1919, by Law No. 35 provides for proceedings against unregistered trade unions, peaceful picketing and the prohibition of actions of torts against trade unions.

4. LEEWARD ISLANDS.

[*Contributed by the* HON. H. A. O'REILLY, *Attorney-General.*]

Thirteen Federal Acts and sixty Presidential Ordinances (Antigua 16, Dominica 15, Montserrat 8, St. Christopher-Nevis 16 and Virgin Islands 5) were passed during the year 1938. Of these enactments the most important were :

Companies.—Act No. 4 adds provisions to the principal Act (c. 140) with regard to the restriction of the registration of companies by certain names, the dispensing with of the word " Limited " in the name of charitable and other companies and the change of name of companies.

Employment of Women, Young Persons and Children.—Act No. 5 makes provision for the prohibition of the employment of children (under 14 years of age) in certain industrial undertakings and on ships, and also the restriction of the employment at night of young persons (14 years but under 18 years of age) and women in such industrial undertakings, with exceptions in the respective classes mentioned.

Escheat.—The discretionary waiver of the Crown of its right of escheat in cases of equitable and moral claims is restored by Act No. 9.

Sedition and Undesirable Publications.—Act No. 11 declares the law with regard to sedition and sets out penalties ; the provisions of the Seditious Publications Act, c. 66, with certain amendments, is incorporated in this Act.

Agricultural Small Holdings.—By Act No. 12, security of tenure for small holders of agricultural holdings of not less than one-quarter of an acre or more than twenty-five acres is provided, by requiring suitable notice for determination of the tenancy or compensation in lieu thereof and for exhausted improvements. Provision is made for written contracts and registration of the same.

Masters and Servants.—Ordinances No. 6 Antigua, No. 3 Dominica, No. 1 Montserrat and No. 1 St. Kitts-Nevis repeal the respective Masters and Servants Ordinances to which they refer, thereby abolishing penal sanctions with respect to contracts of service.

Exportation of Fruit.—Provision is made by Ordinance No. 13 of Antigua and No. 4 of Montserrat for the control of the exportation of fruit with respect to packing, inspection and certification.

Trade Licences and Tax.—Ordinance No. 16 Antigua amends and consolidates the law relating to the licensing of persons engaged in trade and commerce, including pedlars, and provides for the imposition of a tax on goods imported for trade.

Fisheries Ordinance.—Ordinance No. 12 Dominica provides for the regulation of fishing in the Presidency, mainly by empowering the Governor in Council to make rules for such purpose.

Savings Bank.—Ordinance No. 5 Montserrat and Ordinance No. 5 St. Kitts-Nevis amend and consolidate the law relating to Government Savings Banks. Provision is made for any loss sustained in the working of the Savings Bank to be met out of the general revenue of the Presidency concerned.

Sugar Quotas.—Ordinance No. 3 of St. Kitts-Nevis provides for the regulating of the production and disposal of sugar and for the imposing of quotas in respect thereof.

5. WINDWARD ISLANDS.

(i) Grenada.

[*Contributed by* The Hon. Francis Howard Collier, B.A., *Attorney-General of Grenada.*]

In the year 1938, eighteen Ordinances were passed, of which the most important were the following:

Motors.—The Motor Vehicles and Road Traffic Ordinance, 1938, No. 2, repeals the existing provisions of the law relating to motor vehicles and road traffic and replaces them by an Ordinance on the lines of the Trinidad Motor Vehicles and Road Traffic Ordinances, 1934 to 1937.[1]

Sale of Produce.—No. 3 tightens up the provisions of the principal Ordinance with a view to preventing prædial larceny. Clause 2 provides for a Central Licensing Board to meet, subject to the right of the Governor in Council to direct the Board to meet elsewhere if required, at St. George's and Grenville, the principal towns of the Western and Eastern Magisterial Districts respectively.

No. 14 amends further the principal Ordinance with a view to providing that a dealer's licence shall extend to only one set of premises, and strengthens the provisions of the new s. 8 of the principal Ordinance.

Shop Hours.—No. 4 provides for the hours of opening of shops at uniform hours for all classes of premises in the six towns of the Colony, and there is provision that shops may be kept open for one hour after the usual closing hour provided that no assistant is employed therein.

Medical and Dentists Registration.—No. 5 amends the Medical and Dentists Registration Ordinance, permitting a person born or domiciled in the Colony who would have been entitled to register as a medical practitioner in the Colony but for the passing of the Medical and Dentists Registration (Amendment) Ordinance, 1937, to be so registered if in the opinion of the Governor in Council such person possesses special qualifications which makes his registration of benefit to the Colony.

Maintenance.—No. 7 embodies and improves existing legislation, and brings it more in harmony with modern legislation.

District Boards.—No. 11 improves the conditions under which the Secretary of a District Board serves, enables a District Board to open a savings bank account for its employees, and makes the consent of the Governor necessary before arrears of revenue are written off.

No. 16 enables District Boards to make by-laws regulating the prices at which meat and livestock may be bought and sold.

Licences.—No. 12 amends the principal Ordinance by the deletion of ss. 14 and 40, which were found to be unsatisfactory, and makes other provision in lieu. The provisions of the principal Ordinance have also been extended to hawkers and peddlers.

Volunteer Reserve.—No. 17 enables the Governor to appoint commissioned officers to the Volunteer Reserve and to substitute for the President a Commanding Officer.

(ii) Saint Lucia.

[*Contributed by* J. E. M. Salmon, Esq.]

Ordinances passed—29.

Commerce.—Companies, No. 27, restricts the registration of Companies under certain names and also provides for the change of name of a company.

[1] *Rev. of Leg.*, 1937, p. 169.

Designs, No. 16, replaces previous legislation for the protection locally of designs registered in the United Kingdom.

Importation of Textiles (Quotas), No. 3, amends No. 7 of 1934 by deeming imported textiles to be foreign unless accompanied by a certificate of British origin as prescribed.

Sugar Control, No. 7, regulates sugar manufacture in the Colony. It also provides for the disposal of sugar and the allocation of sugar to local manufacturers by quotas for export and for local sale and otherwise. No. 22 amends No. 7 by the addition of the definition of " stocks " of sugar.

Labour.—Employers and Servants, No. 29, replaces the Masters and Servants Ordinances, No. 13 of 1916 Revision and No. 3 of 1920.

Labour, No. 14, appoints a Secretary for Labour and provides for circumstances incidental to the appointment.

Labour (Minimum Wage) Amendment, No. 6, provides the conditions of employment of persons incapable of earning the minimum wage, including the rate of wages to be paid such persons.

Loans.—Castries Electricity Loan, No. 28, amends No. 29 of 1933 as to repayments.

Loans (Repayment), No. 24, replaces No. 9 of 1937.

Waterworks Loan Ordinances for improving water supplies were passed as follows : No. 8, for the town of Soufriere ; No. 9, for the village of Choiseul ; No. 10, for the village of Laborie, and No. 11, for the village of Micoud.

Public Health and Safety.—Dangerous Drugs, No. 20, is a consolidating Ordinance replacing previous legislation.

Opticians, No. 23, provides for their registration and regulates the practice of sight-testing

Petroleum, No. 26, amends No. 22 of 1916 Revision, as to directions for preparing and using apparatus for testing petroleum, a flash point above 73 degrees Fahrenheit to be certified as non-volatile.

Revenue.—Customs Duties are amended as follows : No. 15 replaces " Cable and Wireless Limited " by " Cable and Wireless (West Indies) Limited " ; No. 19 exempts from duty imports by, or taken out of bond for the use of, the Colonial Government, the Governor or the Administrator.

Income Tax, No. 21, exempts the official emoluments received by the Governor of the Windward Islands and the Administrator of the Colony.

Seditious Publications.—No. 5 amends No. 12 of 1920 as to the acts, words and publications which are to be punished as seditious. It also provides for the import prohibition of publications.

Towns.—Botanical Station (Transfer), No. 12, vests in the Castries Town Board the Government Botanical Station, hereafter to be called " George the Fifth Park," with power to make by-laws for its control and management by the Board.

Castries Town Board Amendment, No. 2, provides for the settling, publication and numbering of the list of voters, and for the method of voting, for candidates to be members of the Board.

Education. — No. 1 amends and consolidates the laws relating to education. It is to come into force on proclamation. It provides for a department of education, an education board, primary schools, teachers and management, secondary education, training of teachers, grants from public revenue and for compulsory education.

(iii) Saint Vincent.

[*Contributed by* N. S. Nanton, Esq., *Attorney-General.*]

Legislation enacted during 1938 included the undermentioned Ordinances of importance:

Local Savings Bank.—No. 2 repeals the conditions governing local savings banks contained in the principal Ordinance (No. 15 of 1936) and gives the Governor in Council an absolute discretion as to the conditions under which such banks will be permitted to operate.

Seventh-Day Adventist Church Incorporation.—No. 3 incorporates certain persons as trustees of the above-named Church in the Colony.

Summary Conviction Offences (Procedure).—No. 4 provides for the reduction in the term of imprisonment imposed by a Court of Summary Jurisdiction to the extent of the proportionate part of the alternative fine paid and empowers such Court to revoke orders for the periodical payments of money and to remit sums due thereunder.

Jury.—No. 9 brings the law relating to juries into line with modern conditions. The Ordinance which it replaces has been in existence since 1882.

Infanticide.—No. 14 brings the law relating to infanticide into line with the English Act of 1938.

Customs Duties.—No. 19 implements the Trade Agreement between the United Kingdom and the United States of America.

Exportation of Fruit.—No. 21 repeals and replaces the Exportation of Fruit Ordinance, 1932, with such modifications as had become necessary due to (*a*) the closing down of the Government Fruit and Vegetable Bureau and (*b*) the introduction of legislation in Trinidad and British Guiana prohibiting the importation of fruit and vegetables from this Colony unless accompanied by a certificate issued by a Government plant inspector certifying the produce to be free from unnecessary foliage, trash and soil.

Registration of Documents.—No. 22 enables the registration of (*a*) deeds prepared outside the Colony and (*b*) deeds accompanied by a statutory declaration by one or more of the parties to the effect that such deeds were prepared by themselves or by some other person without consideration.

Land and House Tax.—No. 24 amends the Land and House Tax Ordinance, c. 194, (*a*) by exempting certain houses from taxation and fixing the rates on certain other houses, (*b*) by permitting the collection of taxes in instalments, (*c*) by reducing the fine in respect of unpaid taxes, and (*d*) by reducing the rate of taxation in certain Islands in the St. Vincent Grenadines.

6. TRINIDAD AND TOBAGO.

[*Contributed by* E. Le Gendre, Esq., *Chief Clerk.*]

Forty-three Ordinances were enacted during the year 1938, involving 999 pages of printed matter. Particular mention may be made of the following:

Petroleum Office and Conservation Board.—Ordinance No. 4 re-enacts with modifications the provisions of the original Ordinance (No. 8 of 1929) constituting the Petroleum Office and providing for the appointment of more than one Assistant to the Petroleum Technologist. Provision is made to the effect that operations for oil shall not be commenced or

carried on until and unless a guarantee in the sum of $2,000 has been given.

Shop (Hours of Opening and Employment).—Ordinance No. 6 replaces the Shop Hours Ordinance (c. 191), the Hours of Employment Ordinance (c. 192) and the Seats for Shop Assistants Ordinance (No. 2 of 1928) and all Orders made under cc. 191 and 192. The Ordinance introduces certain new provisions which inter alia eliminate the difference between large and small shops in the different categories, such as general shops, groceries, etc., and prescribes the same hours of opening and employment in each category. The Hours of Employment are restricted to forty-five hours a week and the shift system may be used whenever considered necessary.

Trade Disputes (Arbitration and Inquiry).—Ordinance No. 7 replaces with substantial modifications the Industrial Court Ordinance (c. 151) and provides for the establishment of an Arbitration Tribunal and a Board of Inquiry in connexion with Trade Disputes, the settlement of such disputes and for inquiring into economic and industrial conditions in the Colony.

Arima Corporation.—Ordinance No. 11 consolidates the laws relating to the Borough of Arima and is adapted with modifications from the San Fernando Corporation Ordinance (No. 40 of 1935). The Ordinance provides for the government of the Corporation by six Councillors and three Aldermen, and lowers the qualifications of Councillors and burgesses.

Customs.—Ordinance No. 22 revises the law relating to Customs, Customs Duties and Excise Duties, with a view to bringing the enactments into line with present-day requirements, and provides for the examination of goods imported by air. This Ordinance is the result of several conferences among the British West Indian Colonies.

Post Office.—Ordinance No. 23 consolidates the law relating to the Post Office so as to bring it into line with the existing English enactments.

Trinidad Consolidated Telephones (Ltd.).—Ordinance No. 27 amends the original Ordinance (c. 314) in several particulars and provides for an extension of the existing franchise to the Trinidad Consolidated Telephones Ltd., for a period of eighteen and a half years from July 31, 1939, which would ordinarily be the date of expiration of the existing franchise, and for the valuation of the undertaking as at December 31, 1938.

Masters and Servants.—Ordinance No. 28 replaces the original Ordinance (c. 152) and introduces several substantial modifications in order to make the law relating to contractual obligations of masters and servants conform to modern conceptions of labour engagement on the basis of a civil contract and omits from the original Ordinance the penal clauses relating to breaches of contract.

Recruiting of Workers.—Ordinance No. 29 gives legal effect in this Colony to the terms of a draft Convention adopted by the Industrial Labour Conference in June 1936, having for its object the Regulation of certain special systems of recruiting workers in order to safeguard their interests, and requires that professional recruiters be licensed by Government and their operations supervised by Government.

Rent Restriction.—Ordinance No. 31 amends with substantial modifications the original Ordinance (No. 34 of 1933) and extends its term of operation for a further period of five years.

Income Tax.—Ordinance No. 34 consolidated with modifications the

Income Tax laws with a view to prevent avoidance of tax; provision is now made for further exemptions in certain cases.

Law Revision.—Ordinance No. 35 provides for the revision of the laws of the Colony and the appointment of one or more Commissioners for so doing. The laws of the Colony were last revised in 1925.

Cane-farming Control.—Ordinance No. 36 reproduces the original Ordinance (No. 13 of 1937) with modifications, with the object of more precisely establishing the contractual relations between the sugar manufacturers and the cane farmers, and to fix a precise basis for ascertaining the price to be paid for sugar canes.

Slum Clearance and Housing.—Ordinance No. 41 consolidates and replaces (with modifications) the provisions of the Slum Clearance Ordinance and the Housing Commission Ordinance (Nos. 17 and 18 of 1935) and includes many of the provisions of the English Housing Act, 1936, which have been adapted to meet local conditions. The main purpose of this Ordinance is to provide for the housing of persons of the working classes, the acquisition, reconstruction, and management of slum clearance areas and redevelopment areas, the improvement of unhealthy areas, and the repair or demolition of insanitary dwellings.

Town and Regional Planning.—Ordinance No. 42 governs the preparation and continuous administration of both town and regional planning schemes to control generally the development and use of land whether there are buildings thereon or not, so as to secure orderly and progressive development, proper sanitary conditions and the co-ordination of roads and public services. The Ordinance is adapted from the English Town and Country Planning Act, 1932, and the Irish Free State Act, 1934.

Companies.—Ordinance No. 43 replaces the original Ordinance (c. 180) and has been adapted from the English Companies Act, 1929, with certain changes to meet necessary local requirements. The controlling powers which in England are vested in the Board of Trade have been assigned locally to the Governor in Executive Council, the Court, the Registrar and the Official Receiver.

XIII. MEDITERRANEAN.

1. GIBRALTAR.

[*Contributed by* C. MANSEL REECE, ESQ., *Attorney-General.*]

During the year 1938, nine Ordinances were enacted, of which the most important were the following:

Aliens and Strangers.—S. 16 of the Aliens and Strangers Order (c. 1 of the Revised Edition, 1935) is repealed and replaced by a new section (No. 1) which deals with the harbouring of aliens not daily authorized to enter or to be in Gibraltar.

Lighting Control.—Ordinance No. 3 confers powers on the Government to provide for "black-outs" by Regulations to be issued under the Ordinance.

Rent Restriction.—Ordinance No. 4 has been modelled on certain provisions of three English enactments, viz.: 10 & 11 Geo. V, c. 32; 13 & 14 Geo. V, c. 32, and 23 & 24 Geo. V, c. 32. It applies only to houses where either the annual amount of the standard rent or rateable value does not exceed £60.

Supreme Court.—Ordinance No. 8 is an amendment to the Supreme Court Order, specifying the qualifications which a person is required to possess before appointment as Chief Justice.

Air-Raid Precautions.—Ordinance No. 9 provides that it shall be the duty of the City Council to take precautions with a view to the protection of persons and property from injury or damage in the event of hostile attacks from land, sea or the air. It is modelled on the Air-Raid Precautions Act, 1937.

2. CYPRUS.

[*Contributed by the* HON. L. LLOYD-BLOOD, M.C., K.C., *Attorney-General.*]

During the year 1938, thirty-four Laws were enacted, some of the more important of which were the following :

Passports.—Law No. 2 requires every native of the Colony departing from the Colony for the purpose of proceeding to any country abroad to be in possession of a passport valid for such country.

Pensions.—Law No. 6 extends the provisions of the present Pensions Law to members of the Cyprus Police Force below the rank of Sub-Inspector who were not pensionable before.

Black-out.—Law No. 8 empowers the Governor in Council to provide by regulations for the total or partial cessation of lighting in the Colony on occasions of emergency or public danger, and also for purposes of experiment or practice for such occasions.

Early Closing.—Law No. 16 empowers the Governor in Council by Order to direct that places of business shall be closed for such intervals on such days during the months of June to September in each year as may be specified in the Order.

Sale of Food and Drugs.—Law No. 18 ensures that food and drugs intended for sale for human consumption are not adulterated or injurious to health, and makes provision for the labelling and sampling of such food and drugs in certain circumstances.

Immigration.—Law No. 31 empowers the Governor to make regulations for the registration and control of aliens residing in the Colony.

3. MALTA.

[*Contributed by* C. JOHN COLOMBOS, LL.D.]

Ordinances passed—39.

Limitation of Hours of Employment.—In pursuance of the Government's policy to improve labour conditions in the island, Ordinance No. 5 confers upon the Governor in Council power to limit, by order, the number of hours in any employment to which the Ordinance applies and to fix the hours at which all shops in a specified area are to be closed for weekly periods of rest. The Governor in Council is, further, empowered to fix the minimum wages payable to persons in any employment covered by the Ordinance.

Bank Deposits.—Ordinance No. 23 authorizes local Banks to require notice of the withdrawal of all sums of money deposited in the Banks and exceeding £5 and to defer such payments for periods varying from one to four days. To counteract the limitations resulting from such deferred payments, the Courts are given power to postpone the enforcement of any judgment or of any other executive title during such time as they

consider fit, provided it is proved that the inability to pay a debt is due to the restrictions imposed by the Ordinance.

Trustee Investments.—Ordinance No. 29 provides for the carrying into effect of the rules prescribed by the Colonial Stock Acts, 1877 to 1900, of the Imperial Parliament, for the investment of trust funds and securities created or issued by the Government of Malta and registered in the United Kingdom.

XIV. MIDDLE EAST.

1. PALESTINE.

[*Contributed by* RALPH WINDHAM, ESQ., M.A., LL.B., *Legal Draftsman.*]

Of the thirty-nine Ordinances which were enacted in Palestine in 1938, the following were the more important:

Advocates.—Nos. 32 and 33 provide for the establishment of a Law Council to replace the Legal Board and the Council of Legal Studies and to take over their duties, which now include the control and supervision of the local law classes and of the Palestine Law Examination (hitherto known as the Foreign Advocates Examination), the issue of certificates qualifying persons to practise as advocates, and the holding of inquiries into the conduct of advocates alleged to be guilty of unprofessional conduct. No. 32 repeals the existing Advocates Ordinance (c. 2) and re-enacts most of its provisions subject to certain modifications, which include the enlargement of the definition of the profession of an advocate to include the conduct of all transactions within the scope of a barrister's or solicitor's profession in England, and a provision prohibiting an advocate from paying a commission for the procuring of legal work to anyone except a clerk in his regular employ. The detailed provisions of c. 2 regarding the conditions of admission to practise and the procedure in charges of unprofessional conduct have been replaced by rules made under No. 33.

Agricultural Fertilizers.—No. 27 provides for the protection of agricultural fertilizers against adulteration and follows closely the provisions of the corresponding Cyprus Law, No. 21 of 1922.

Mortgages.—No. 9 provides that loans made upon mortgage security by certain companies approved by the High Commissioner shall be exempt from the provision of the Ottoman Law which requires that the total interest recoverable on a debt shall not exceed the principal amount of the debt. This Ordinance furthers the policy of extending encouragement to banks and other companies primarily engaged in making long-term agricultural loans.

Pensions.—S. 18 of the Pensions Ordinance (c. 107) provides for the grant of pensions and gratuities to the dependants of officers who have died as a result of injuries received in the discharge of their duties in certain circumstances. These provisions, which are the standard ones in colonial pensions legislation, were considered neither appropriate nor adequate to cover the case of an officer dying through injuries received as a result of the disturbances which prevailed in Palestine from 1936 onwards, since those disturbances could not be held to fall within the ordinary risks of service. No. 36 accordingly adds a new section to c. 107 providing for the grant of pensions at more generous rates to the

dependants of officers who have died as a result of injuries attributable to serious and widespread disturbances in Palestine. Nos. 37 and 38 insert similar sections in No. 15 of 1934 and c. 112, providing more generous pensions in the above circumstances to Sharia Courts officials and police officers respectively.

Petroleum.—No. 25 repeals, and re-enacts with extensive amendments and additions, the law relating to prospecting and mining for oil (including natural gas) hitherto contained in the Mining Ordinance (c. 94), and confines the scope of c. 94 to prospecting and mining for minerals other than oil. The amendments and new provisions include provision for the grant of oil-prospecting licences covering the operations hitherto dealt with separately under exploration permits, prospecting permits and prospecting licences, and include amendments in respect of the areas which may be granted under oil-prospecting licences and oil-mining leases, the periods for which such licences or leases may be granted, and the fees, dead rents and royalties payable ; provision is also made for the right of pre-emption of oil by the Government in the event of grave emergency. The new provisions are modelled largely upon other colonial legislation, in particular that of Trinidad.

Rates and Taxes (Exemption).—No. 18 makes provision for the exemption from municipal rates, and from rural and urban property tax, of property of various descriptions, of which the main categories are property occupied and used by the Government, property occupied by consular officers and property used for religious, charitable or educational purposes. It sets out specifically all the exemptions hitherto enjoyed by institutions or bodies by virtue of treaties, firmans, decrees and other provisions of the Ottoman régime, and recognized and maintained under Ordinance No. 1 of 1934 (as regards municipal rates), c. 147 (as regards urban property tax) and No. 1 of 1935 (as regards rural property tax). It also provides for the future exemption of certain further categories of property, including the exemption from urban property tax of municipal property which is used for public services and not commercially or for profit.

Trade Marks.—No. 35 consolidates and amends the trade marks law of Palestine. It repeals the Trade Marks Ordinance (c. 144) and re-enacts most of its provisions, together with a large number of amendments and additions modelled on provisions of the English Trade Marks Acts. The more important amendments include the revision of the provisions as to opposition to registration, the reduction of the initial period of duration of trade mark rights from twenty years to seven years, and the revision of the provisions as to application for rectification of the register.

Town Planning.—No. 8 amends No. 28 of 1936 mainly in order to enable the town planning authorities to exercise a tighter control over the appearance and use of buildings, and in particular to prevent the use of a building for a purpose other than that permitted under the zoning provisions of the relevant town planning scheme, *e.g.* to prevent the conversion of a residential building into a shop in an area or street in which shops are not permitted under the scheme.

Water Survey.—No. 2 confers on the High Commissioner, or any person authorized by him for the purpose, power to enter land and to sink boreholes thereon and to perform other operations connected with the hydrographical survey of Palestine. It provides for the payment of compensation for damage caused by the operations, and for the expro-

priation of the sites of boreholes in which water has been successfully located. The particular object of this Ordinance was the hydrographical survey of the southern part of Palestine and the Jordan valley, which has since been completed with somewhat negative results.

2. TRANS-JORDAN.

[*Contributed by* A. L. GARDINER, ESQ., *Judicial Adviser*.]

Twenty-two laws were enacted in Trans-Jordan in 1938, of which fifteen were of a purely local importance, including the budget, or amended to a slight extent existing legislation. The remaining seven were as follows:

Saudi Arabia Treaty.—No. 1 implements the treaty of July 27, 1933, with Saudi Arabia by quashing certain proceedings rising out of raids, and by prohibiting further legal proceedings in connexion therewith.

Municipal.—No. 9 amends and consolidates all legislation regarding municipalities.

Explosives.—No. 12 regulates the possession, sale and purchase of explosives, a matter which had not been adequately legislated for hitherto.

Roads.—No. 15 deals with the matter of public roads, on which there was practically no existing legislation.

Public Establishments.—No. 19 amends and consolidates the law regarding public establishments and dangerous and unhealthy trades.

Organic Law.—No. 21 amends in certain important respects the Organic Law of Trans-Jordan of 1928.

Non-Moslem Religious Community Councils.—No. 22 amends the law regarding Religious Community Councils, which amendments were to a large extent made necessary by the amendments to the Organic Law.

The Diwan Khas for the interpretation of laws decided seven cases, of which five concerned pension and kindred matters.

XV. UNITED STATES OF AMERICA.

FEDERAL LEGISLATION.

[*Contributed by* LUCIUS F. CRANE, ESQ.]

The volume of legislation enacted in 1938 during the third session of the 75th Congress of the United States of America was unusually large. Much of it, however, was, as usual, of a purely local character. Indeed, it is surprising to an Englishman to learn of the very wide scope of local legislation, or rather perhaps of the necessity for an Act of Congress to accomplish what would in this country be simple administration under the authority of an existing Act of Parliament. For example, such diverse matters require an Act of Congress as the building of bridges, the erection of a memorial to the late Signor Marconi, the attendance of the Marine Band at the Anniversary Celebration of the Battle of Gettysburg, repairs to naval vessels and so forth. Even the conferment of American decorations is a matter for Congress rather than the President.

Thus, it is curious to note the contrast between His Majesty's recent award of a K.C.V.O. to the Portuguese Ambassador and the necessity

for a joint resolution of the Senate and House of Representatives as an essential prerequisite to the conferment of American decorations on British naval officers in connexion with the " Panay " incident.

It is not possible, in this Review, to do more than draw attention to some Acts of Congress passed in 1938 which are of interest beyond the borders of the United States.

Official Secrets.—One of the first Acts appearing in vol. 52 of the U.S. Statutes at Large is symptomatic of the times. It is directed against unauthorized photography, sketches, pictures, drawings, maps or graphical representations of military and naval installations or equipment without permission, whether from the ground or from aircraft.

Defence Forces.—There was passed, too, in 1938, a good deal of legislation of a military character designed to increase the efficiency of the coast-guard, to bring the army up to commissioned strength, to establish a regular army reserve, for naval construction and the like.

Diplomatic Privilege.—Symptomatic, too, of the trend of present-day affairs is an Act passed for the protection of foreign diplomats and their buildings. The Act prohibits the display, within five hundred feet of any foreign government building, of any flag or banner or device designed to intimidate, coerce or bring into public odium any foreign government, party or organization, or to interfere with the free and safe pursuit of the duties of any diplomatic or consular representative of a foreign government, or for persons to congregate within five hundred feet of any such premises. Curiously, the Act does not extend beyond the District of Columbia, the protection of foreign government offices in other cities than Washington being left to the care of the State authorities.

Anti-trust Legislation.—Under Mr. Roosevelt's administration the Federal Anti-trust Laws, which date back to the Sherman Anti-trust Law of 1890, have been rigorously enforced. On April 13, 1938, a joint resolution was passed by both Houses of Congress to investigate the policies employed by manufacturers in distributing motor vehicles, accessories and parts, and the policies of dealers in selling motor vehicles at retail, as these policies affect the public interest. The object of the investigation was stated to be to ascertain, amongst other things, the extent, if any, to which fraudulent, dishonest, unfair and injurious methods are employed, including combinations, monopolies, price-fixing or unfair trade practices.

False Imprisonment.—An interesting Act of 1938 provided machinery for the relief of persons erroneously convicted, who may now maintain a suit against the United States in the Court of Claims for damages sustained as a result of such conviction and imprisonment, but the damages awarded may not exceed $5,000.

Social Services.—Social services nowadays play an increasingly large part in Federal legislation. C. 267 of the Laws of 1938 provides machinery under which large sums are made available for the purpose of assisting States, counties, health districts, and other political subdivisions in establishing and maintaining adequate measures for the prevention, treatment and control of venereal diseases and for research. For the year ending June 30, 1940, the sum made available is up to $5,000,000, and for the following year up to $7,000,000.

During the past few years increasing attention has been paid to the subject of venereal disease in the United States. Many articles have appeared in the better-class magazines, impressing upon the public the

necessity of combating diseases of this type and urging public discussion of the subject. Perhaps the individual most prominent in this campaign has been Surgeon-General Thomas Parran, of the United States Public Health Service, and it is the Surgeon-General of the Public Health Service who is charged by the Act referred to with the duty of allocating to various political subdivisions monies out of the sum voted.

Soil Conservation.—For some years the attention of the Federal Government has been concentrated on measures to restore what have been known locally as "dust bowl areas" in the south-western States, that is to say areas ruined by drifting dust storms. The Agricultural Adjustment Act of 1938 is a further step in this direction. It substantially amends and supplements the provisions of the earlier Soil Conservation and Domestic Allotment Act. The Agricultural Adjustment Act commences with a statement of the policy of Congress, namely to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility and of preserving, maintaining and rebuilding farm and ranch land resources in the national and public interest. Further objects are to assist in the marketing of agricultural commodities for domestic consumption and for export and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco and rice "to the extent necessary to provide an orderly, adequate and balanced flow of such commodities" through storage of reserve supplies, loans, marketing quotas and to assist consumers to obtain an adequate and steady supply of such commodities at fair prices.

Taxation.—Another Act of importance is the Revenue Act of 1938. It may perhaps be explained that Federal taxation, including income-tax and estate tax, is dealt with from time to time by such Revenue Acts, commencing, from the point of view of income-tax, with the Revenue Act of 1913.

Actually, early in 1939, the Internal Revenue Code was enacted, which was designed to state the law as it then existed, and to avoid the necessity of examining many previous Revenue Acts in order to ascertain the existing law. In other words, the Internal Revenue Code of 1939 may be likened, in so far as it deals with income-tax, to the Income-tax Act of 1918.

The changes made by the Internal Revenue Act of 1938 are not of general interest, with the exception of one or two substantial changes in the law. The most important changes were in the methods of taxation of companies and in the treatment of capital gains and losses. Unlike the provisions of the English statutes governing income-tax, capital gains and losses must be taken into account by the American taxpayer in returning his income for taxation. It is true that since the Revenue Act of 1936 a non-resident alien who has no office or place of business in the United States is not subject to the provisions of the Revenue Acts imposing a tax on capital gains, but the American taxpayer is still so subject, in the sense that if he should, for example, buy a hundred shares of stock and sell it at a profit, he is liable to return the profit or a proportion of it, depending upon the time during which he held the stock. Thus, the Revenue Act of 1938 provided that 100 per cent. of the gain should be taken into account if the asset had been held for eighteen months; 66⅔ per cent. if it had been held for eighteen months and not more than twenty-four months, and 50 per cent. if it had been held for

more than twenty-four months. Losses, of course, may be set off against gains, but no excess of losses over gains may be set off against ordinary income returned for taxation in the case of " short-term " capital losses, that is, losses on assets held less than eighteen months, though that excess may be carried over and set off against short-term capital gains in the succeeding year.

Juvenile Offenders.—In 1939 there was also passed what is known as the Federal Juvenile Delinquency Act, which provided for the care and treatment of juvenile delinquents, juvenile delinquency being defined as an offence against the laws of the United States, committed by a person seventeen years of age or under, and not punishable by death or life imprisonment. The object of the Act is largely to prevent such juvenile delinquents being imprisoned with adults or at all, if the circumstances are such that they may be detained elsewhere in some suitable public or private institution.

Bankruptcy.—The Bankruptcy Act of 1898 was very substantially amended in 1938, particularly in regard to corporate reorganization, insolvency of farmers and wage-earners and in many points of administration.

Food and Drugs.—The last Act of 1938 of which space permits mention is the Federal Food, Drug and Cosmetic Act, designed to prohibit the sale of adulterated or " misbranded " foods, drugs, " devices " or cosmetics. A " device " means an instrument, apparatus or contrivance intended for use in the diagnosis or treatment of disease. The Secretary of Agriculture is authorized by the Act to make regulations fixing and establishing a reasonable definition and standard of identity and quality of any food. An interesting provision is the prohibition against the introduction of any new drug without application to the Secretary of Agriculture. A person desiring to introduce a new drug must submit to the Secretary full reports of investigations which have been made to show whether or not the drug is safe for use, a full list of its components and composition, samples and other information. The Secretary may refuse or allow the application to become effective. An appeal may be taken from his decision to the courts.

With regard to cosmetics, provision is made for a definition of adulteration and the circumstances under which a cosmetic may be deemed misbranded. Provision is also made for factory inspection and various other forms of investigation.

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Before leaving this topic, may we note a minor divergence in the practice of Canadian and British drafting? If a statute of the United Kingdom Parliament is amending a section of a previous statute, the draftsman conveniently gives a parenthetic hint of the purport of the section to which he is referring. A recent statute enacted at Westminster had occasion to amend (at the request of Canada) a section of the British North America Act, 1867. The Bill began as follows:

"Section ninety-one of the British North America Act, 1867 (*which enumerates the classes of subjects within the exclusive legislative authority of the Parliament of Canada*) is amended by inserting therein . . ."

The Solicitor-General moved an official amendment to delete the bracket with the descriptive words which we have italicized. He explained that it is not the Canadian practice to employ this expository device. It was naturally desired to pass the Bill in the form to which Canada is accustomed. We may hope, however, that the British draftsmen will continue their own practice in Bills affecting the United Kingdom. Direct amendment of a named section is the least objectionable of all forms of referential legislation—if indeed it should be included under that label at all. To tell the legislator the purport of the section which he is invited to amend will save him research and is surely well worth while.

LAPSED BILLS.

[*Contributed by* OWEN CLOUGH, ESQ.]

EARLY this year an article by Professor A. F. Pollard and certain correspondence appeared in *The Times*,[1] which referred to the practice at Westminster, whereby bills which have not passed all their stages in either House of Parliament upon prorogation are "summarily executed," and the time and labour spent upon them made of no avail. Information upon the methods by which many of our Oversea Parliaments have solved the problem of lapsed legislative business accordingly may be of interest to readers of this *Journal*.

Of English-speaking countries, it seems that legislators in the United States appear to have been the first to chafe under the practice of "the slaughter of the innocents." For some years after the declaration of Independence, Congress attempted to follow the rule of the English Parliament, that business unfinished in one Session should begin anew at the next, but early last century this was changed,[2] and now legislative business remaining undetermined at the close of the next preceding Session of that Congress is resumed and proceeded with as if the Session had continued.[3] At Washington, however, prorogation, as understood

[1] January 11, 19 and 24.

[2] House of Representatives Rule XXVI and n., p. 429. *House Document No. 700, 75th Congress, 3rd Session.*

[3] Senate Rule XXXII; House Rule XXVI.

under British constitutional practice, is unknown, as it is, indeed, in most, if not now all, the State Legislatures.[1] Every Congress usually has two Sessions, each commencing on the fixed date laid down by the Constitution,[2] unless a different day is appointed by law. Congress separates in two ways only, namely, by adjournment upon the joint vote of the two Houses, or dissolution by the effluxion of time, but a dissolution certainly closes one Session and the meeting of Congress begins another.[3] The Congress adjournment resolution authorizes the President of the Senate and the Speaker of the House of Representatives to close the present Session by adjourning their respective Houses on the day and at the hour stated in the resolution.[4]

In the British Empire (including the British Commonwealth of Nations as defined in the Statute of Westminster, 1931), where Sessions of Parliament are closed by prorogation, upon the action of the Crown, as advised by the Executive, the practice of resuming, in the succeeding Session, the proceedings upon bills lapsed on prorogation, more or less at the stage at which their progress was arrested in the previous Session, was first introduced in the Parliaments of some of the Colonies now constituting the States of the Australian Commonwealth. This practice was later taken up by the Commonwealth Parliament itself five years after the establishment of Federation in 1900, and subsequently adopted by the remaining Parliaments of those States, until to-day it is in force, in varying forms, in all the seven Parliaments in Australia.

In 1912, two years after the advent of Union, the Senate of the Union of South Africa, having laboured with consolidation measures in protracted select committees only to see their offsprings taken to the scaffold by prorogation, proposed a Standing Order to the House of Assembly very much on the lines of the Canberra model in order "to provide machinery by common consent of the two Houses of Parliament whereby work done in one Session might not be wholly wasted."[5] Four years later, the House of Assembly, prompted by the same experience, originated very much the same Standing Order,[6] which was transmitted by message to, and concurred in by, the Senate.[7]

In 1924 the Parliament of Southern Rhodesia took over the Union Standing Order, adapting it to a unicameral legislature.[8]

In India, in regard to the present Council of State and Legislative Assembly of the Central Legislature at New Delhi, provision is made by Standing Order [9] for bills pending at the close of a Session in the Council of State or Legislative Assembly, to be carried over to the next Session, but if the Member-in-charge makes no motion thereupon during two

[1] Cushing, 9 ed., ss. 517, 518.
[2] Art. (Amendment XX).
[3] Jefferson's *Manual*, s. LI.
[4] House of Representatives Rules, 1938 ed., s. 949.
[5] Senate S.C. 7, 1912; 1912, Min. 381; *ibid.*, Sen. Deb. 593.
[6] S.O. Committee Fourth Rep., S.C. 14, 1916; 1915–16, Votes, 857, 902.
[7] S.C. 6, 1916; 1915–16, Min. 278, 291, 302; *ibid.*, Sen. Deb., vol. iv, 1541.
[8] S.O. 169.
[9] S.O. 4.

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